ANTIDOTUM BRITANNICUM:

OR,

A COUNTER-PEST

AGAINST THE

Destructive Principles

OF

PLATO REDIVIVUS:

Wherein His Majestie's *Royal Prerogatives* are Asserted, and the *Ancient Rights* of the *Imperial Crown of* ENGLAND are Vindicated,

Against

ALL INNOVATORS.

Res novæ non tam utilitati Proficiunt, quàm Novitate efficiunt.

LONDON,
Printed for *Richard Sare* at *Grays-Inn Gate* in *Holborn*, 1682.

140 3:10

TO THE

KING'S

Most Excellent

Majesty.

Great Sir,

AFter those many Addresses (full of Duty and Loyalty) which have been made unto your Sacred Majesty, this small

Enchiridion (wherein you Majesties just Rights are Asserted) with much Humility begs your gracious Acceptance and Pardon; To lessen your Regal authority, or the Prehe-minences of your Imperial Crown, is to Subvert your Government; and they who design the first, do it to promote the latter: Your Majesties just Rights are the best preserver of the Peoples

Liber-

Liberties; they are an impregnable Bulwark against all popular Invasions and Arbitrary Powers; If once your royal Authority suffers any Diminution, Tyranny will become a Law, Oppression will become a Law, Phanaticism will become a Law, and it will open a Gate for the Saints to enter and take Possession.

Your Loyal Subjects well know that if they

value their own Rights and Liberties, or love their own Happineſs, they are obliged in Duty and Intereſt to defend thoſe of your Majeſty, for the Rights and Liberties of the King and People, like Hippocrates *Twins, live and die together.*

It was a Principle in the Philoſophy of a great King, firſt to aſſert his own authority and power, and then to ſhew himſelf

ſelf indulgent in his Nature.

All admire your Princely Clemency and Goodneſs, it is hoped your Enemies may in due time dread your Power. Your Majeſties Royal Declaration (for the Maintenance of Religion, and the Liberties of your Subjects as by Law eſtabliſhed) hath ſo tyed their Hearts and Affections unto your Majeſty, that they are ready

ready for the preservation of the just Prerogatives of your Imperial Crown, to Sacrifice their Lives and Fortunes, and when they have done it triumph in the Oblation.

It is Storied, that there was a City adjudged invincible, because it was defended with a Wall of Fire, how impregnable then must your Majesties Government be, which is for-

fortified with a Wall of hearts enflamed with Zeal for your Majesties Service?

The ancient Hebrews for Benefits received, erected Statues at their Doors: Sir, you need no Statues, nor Pyramides, no Marbles, since your Majesty hath as many Monuments erected for you, as there are loyal Subjects in your Realm.

As your Majesty is

the fountain of Honour, so you are the Centre of our Happiness; Here your Loyal Subjects as so many Lines drawn from the Circumference to the Centre, all meet in your Sacred Majesty. In which Number is

Octob. the 21th, 1681.

Your Majesties most Loyal

and most Obedient Subject

W. W.

THE PREFACE TO THE READER.

Courteous Reader,

SOme time ſince, a Book Entituled *Plato Redivivus* was ſent unto me by a Perſon of Honour: In Obedience to his Commands, I read it, and (*en Paſſant*) made theſe Remarks upon it, which are here preſented unto you. The *Gentleman* the *Author* (if you will

believe him) seems to be for *Monarchy*, but aims to take all the Flowers out of the *Imperial Diadem*, all the *Regalia* from the Monarch, and to make him (as the *Spaniard* hath it) * *a Rey de Havas*. I have observed that they who are troubled with the Itch of *Innovation*, cannot but be rubbing upon *Majesty* it self; their Design is to turn *Monarchy* into *Anarchy*, and would be accounted Angels tho' it be but for stirring and *troubling of the Waters*.

A Bean King such as we use in Choice in Sport on Twelfth Night

The Bold Proposals of this Author, puts me in mind of the Crafty Friar in *Summer's* Tale, who desired for his Dinner only the Liver of a *Capon* and a *Pig's* Head; well knowing, that if he got those we would not want his part of

of the *Pig* and *Capon* too.

I am well ſatisfied, that if this Excellent frame of Government were Modell'd according to the Capricio's of ſome Men, it would be a ſtranger Monſter than ever *Aldrovandus* heard of.

What the deſign of this *Gentleman* might be (in ſuch an ill Poſture of Affairs) to Propagate ſo many Pernicious Maxims and Popular Theorems tending to the *Subverſion* of the *Eſtabliſhed Government* is beyond my Skill to Judge.

I cannot think him a good *Oculiſt*, who if he ſees a ſpeck in the *Eye* would therefore pull the *Eye* out: The *Britiſh Monarchy* for its Excellent

Temper, and Juſt Laws, hath been renowned in all Ages; and this Iſle of *Britain* hath been *Royal* from its *Infancy*, and may be ſaid to have worn a *Crown* in its *Cradle*.

Some Contemplative Men have thought (notwithſtanding the great *Eulogiums* and Deference the Author gives unto *Common-wealths*) that God Almighty in his Eternal Wiſdom, Eſtabliſhed no other Government than *Monarchy*, it being the beſt *Repreſentative* upon *Earth* of his Divine *Unity* and *Empire* in Heaven. For if you Conſult the Sacred Oracles of God's Word (beyond all their Politicks to Judge by) you ſhall find no Rule or Example, no Precept of Obedience to any other Government than *Monarchy*; and till the

the World was 3000 years old, there was no other Government. And Christ himself was not pleased to inrich the World with his Divine Presence, till all were reduced under the happy Empire of *Augustus Cæsar.*

Monarchy is the most sure *Basis* of the Peoples Liberties and the only Staple of their Happiness: Reflect upon all other Governments, there you may see Oppression, Tyranny, and Injustice in the Ascendants. Look into *Athens*, the first Common-wealth that ever was (if we may believe *Pliny*) there you shall see *Aristides* the Just Banished, *Themistocles* dye in Exile, *Miltiades* in Prison, and *Socrates*, tho the wisest of Men Poysoned: But why should I go

so far for Examples? If you please to draw the Curtain, and look upon the late Distempers in this Nation (when there was no King in our *Israel*) there you may see good Men forc'd to yield their Fortunes for a Prey, their Lives for a Sacrifice, and their Religion for a Scorn unto unreasonable Men.

If the exercise of the *Magnalia Imperii*, or Regal Powers were taken out of the Crown, and placed in several Councils, as the Author generously doth Prescribe (as the only *Panacea*) for all our Infelicities and Distempers; instead of making us happy, it would render us the most miserable People in the World, it would not only be destructive to the Liberties of the People; but would

would open a Door to all Calamities, and Confuſion, and the Crown would be left as a Prey to him that gets uppermoſt.

Man is an Epitome, or little Model of a Kingdom; if the Will, Phantaſie or Paſſions get the Dominion over Reaſon (which ſhould be Soveraign) we ſee what Diſtractions and Diſtempers it doth produce in the Iſle of Man; is it not the ſame in a ſtate, when Ambitious and Turbulent Spirits ſhall riſe up to Contradict their Prince, and diſturb the Government?

We know how the *Maires of the Palace* affronted the Power of the *French* Kings; and how fatal the Order of the 12 *Peers* (without whoſe Ad-

Advice no War or Peace could be made) was unto *France*. Therefore it was well obſerv'd by *Tacitus*, That *Unicum Imperii corpus unius animo regendum eſt.*

If the account of time ſhould be Regulated not by the Sun alone (who is the *Prince* and *Monarch* of the *Heavens*) but by the joynt Motion of the other *Planets*, which were a kind of *Oligarchie*, or by the Stars of the firſt Magnitude, (which are *Optimates Cœli*) and were an *Ariſtocracy*, what Diſorders would creep into the Kalendar? But how great would the Confuſion be, if thoſe *Plebeian Sparks*; thoſe leſſer Stars (which People the Sky, and only glymmer by the Contribution of Light which

which they receive from the greater Luminaries) ſhould have a Predominant Influence upon our Seaſons? To prevent ſuch Irregular Miſchiefs, the great Creator gave the Rule of the Day to the Sun alone; and he who kindled that Glorious Light in the Firmament, ſet up alſo the King to Govern upon Earth alone by the Splendour of his Authority and Regal Power.

The temper of theſe *Men* put me in mind of *Giotto* a Famous Painter in *Italy*, who being deſired by *Robert* King of *Naples* to Draw a Portraicture of his Kingdom, drew an Aſs, with a Saddle on his back, and ſmelling to another new Saddle, and upon each Saddle a Crown and Scepter; The King demanding

ing what he meant thereby, He answered, *Such is your Kingdom and Subjects, for they desire new Lords daily, still smelling after new Governments.*

Certainly *Novatian* himself was not a greater Innovator than these *Men* would be, if they might have their Wills.

They Complain of the inexecution of our Laws, like the Old Woman in *Seneca*, that the Room was dark, when the fault was in her own Eyes.

Have we not a due Administration of Justice? Doth not the King (the Fountain of Justice) by his Judges and Justices, as so many Crystal

Pipes

Pipes convey his Royal Justice to his People? when held *Distributive Justice*, (which is Ἔρμα πόλεων, the Prop of Kingdoms) a more equal ballance to give every Man his own? or when hath *Coercive Justice* been temper'd with more Mercy? Do we not injoy Peace and Happiness, when in our Neighbourhood there is no other Prospect than *Blood* and *Confusion*?

Have we not good and just Laws? Laws worthy of that Nation that made *Cæsar* do to *them* that all Nations did to *him*.

Territa quæsitis Ostendit Terga Britannis.

Who

Who tho they digested a Conquest of themselves, yet never would suffer their Laws to be had in Triumph: The due Execution of these Laws hath kept us up in Reputation to Posterity; It's that which hath done, and will to all Ages and Times make this Nation glorious, that we are governed by such a Law which for constant Continuance, certainty of Administration, and excellent Frame, *Tanquam Luna minora sydera* darkens and Eclipses the glory of all other Laws whatsoever, were it not for these Laws, the great ones would devour the less; and make Poverty a Pavement for themselves to trample on.

What these Men would have, I know not; Do they not

not enjoy *Liberty of Conſcience*, (their great *Idol?*) But let them be aſſured, That *Liberty of Conſcience* in the *Church*, will in time introduce *Arbitrary Power* in the *State*; for as their *Proſelytes* increaſe, ſo will their *Diviſions*; therefore to preſerve the Publick *Peace*, and to keep them in *Obedience* there muſt be an *Army*, and then with the help of a little Logick we may conclude what the Conſequence will be; will it add any Trophies to their Glory, when Poſterity ſhall ſay, That *thoſe Men which did ſo much Decry, and were ſo jealous of Arbitrary Power, were the only Men that brought it in?*

It's agreed at all hands, that the *Jeſuits* are the ſecret Springs which

which give the Motion unto all the *Schiſms* and *Factions* amongſt us; therefore I have often admired that they ſhould hate the *Jeſuits*, yet love the *Schiſm*.

The *Church* and *Commonwealth* make one *Monarchy*, the *Schiſmatick* is a *Thorn* in the ſides of the *Church*; the *Factious* a *Thiſtle* in the *State*; remove thoſe and the Monarchy will flouriſh.

The *King*'s *Power*, is *God*'s *Ordinance*; the *King*'s *Command* muſt be *God*'s *Glory*, and the *Honour* of the *Subject* is *Obedience to both*.

W. W.

A Scheme of the Pernitious and Antimonarchical Maxims expreſſed in a Book called *Plato Redivivus*, lately Publiſhed to infect His Majeſtie's good Subjects, and wherein the Author by the Artillary of his Depraved and Corrupt Principles doth endeavour to beat down that Excellent Fabrick of our *Engliſh* Monarchy, and to introduce into, and ſet up a Popular or Democratical Government in this Nation.

1. *THe Courtiers have played Handy Dandy with Parliaments, and eſpecially with the Houſe of Commons (the only part which is now left entire of the old Conſtitution) by Adjourning, Proroguing, and Diſſolving them contrary to the*

true meaning of the Law as well in the Reign of our late King, as during His Majeſtie's that now is, fo. 21.

2. *All Empire is founded in Property*, fo. 35. 40. 54. *Therefore if the People have the greateſt Intereſt in the Property, they will and muſt have it in the Empire*, fo. 45.

3. *I could wiſh there never had been any Clergy, the Purity of Chriſtian Religion; as alſo the good and orderly Government of the World had been much better provided for without them, as it was in the Apoſtolical time, when we heard nothing of Clergy*, fo. 98.

4. *Making of War hath been uſually exerciſed by the Prince, if he can do it with his own Money; yet even in that Caſe, becauſe it may be ruinous to the Kingdom by expoſing it to an Invaſion, many have affirmed that ſuch a Power cannot be by the true and ancient free Government of* England, *ſuppoſed to be truſted in the hands of one Man*, fo. 104.

5. *The*

5. *The Parliament is as Eſſential part of the Government as the Prince*, fo. 110.

6. *No Parliament ſhould be diſmiſſed till all the Petitions were anſwered, that is in the Language of thoſe times, till all the Bills (which were then ſtiled Petitions) were finiſhed*, fo. 111.

7. *It's all one to have no Parliaments at all, but when the Prince pleaſes, and to allow a Power in him to diſmiſs them when he will, that is, when they refuſe to do what he will*, fo. 113.

8. *Though the King is intruſted with the formal part of Summoning and Pronouncing the Diſſolution of Parliaments; yet Laws (which oblige him as well as us) have determined how and when he ſhall do it; which ſhews that the King's ſhare in the Sovereignty, that is, in the Parliament, is cut out to him by the Law, and not left at his diſpoſal*, fo. 113.

9. *Whatsoever Powers are in the Crown whether by Statute, or by old Prescription they are and must be understood to be intrusted in the Prince, for the Preservation of the Government, and for the Safety and Interest of the People; and when either the Militia which is given him for the Execution and Support of the Law shall be imployed by him to Subvert it, or the Treasure shall be misapplyed; and made the Revenues of Courtiers and Sycophants, it's a great Violation of the Trust reposed in him by the Government, and a making of that Power, which is given him by Law, unlawful in the Execution: and cannot be abused without great Danger to his Ministers, and even to himself*, fo. 117, 118.

10. *The King hath no Authority of his own, but what was first intrusted in him by the Government of which he is Head, nor is it to be imagined that they would give him more Power, than what was necessary to Govern them*, fc. 119.

11. *If the King hath a Negative*

Voice

Voice in Parliaments, it's as much as a Power to fruſtrate when he pleaſes all the Endeavours and Labours of his People, and to prevent any good that might accrew to the Kingdom, by having the Right to meet in Parliaments, fo. 122.

12. *There are not to be found any Statutes that have paſſed, without being Preſented to His Majeſty, or to ſome Commiſſionated by him, but whether ſuch Addreſſes were intended for reſpect and honour to His Majeſty, as the Speaker of the Houſe of Commons, and the Lord Mayor of* London *are brought to him, I leave it to the Learned to Diſcourſe,* fo. 124.

13. *There were never any Parliamentary Requeſt which did highly concern the Publick, preſented to His Majeſty, and by him refuſed; but ſuch Denials did produce very diſmal Effects, as may be ſeen by our Hiſtories, Ancient and Modern,* fo. 124.

14. *The Court of* Chancery *is one of thoſe Buildings that cannot be re-*

paired, but must be demoliſhed, ſo. 131.

15. *If the King hath a Negative Voice, it ought to be uſed according to the true and genuine intent of the Government, that is, for the Preſervation and Intereſt of the People, and not for the diſappointing the Councils of a Parliament towards reforming Grievances, and making Proviſion for the future execution of the Laws, and whenſoever it's applied otherwiſe it's a Violation of Right, and Infringement of the King's Coronation Oath,* ſo. 123.

16. *The Natural part of the Government, which is Power, is by the means of Property in the hands of the People, while the Artificial part or the Perchment, in which the form of Government is written, remains the ſame, for it's viſible that the 40th part of the Lands which were at the beginning in the hands of the Peers and Church, is not there now; beſide, that not only all Villanage is long ſince aboliſhed, but the other Tenures are ſo altered and qualifi'd, that*

that they ſignifie nothing towards making the Yeomanry depend upon the Lords, fo. 134.

17. *If a Lawful Prince, that is, one being ſo by Law, and ſworn to Rule according to it, breaks his Oaths and his Bounds, and Reigns Arbitrarily, he becomes a Tyrant, and an Uſurper, as to ſo much as he aſſumes more than the Conſtitution hath given him*, fo. 140.

18. *In* England *Property by degrees came to ſhift from the few to the many, ſo that the Government is grown heavier, and more uneaſie both to Prince and People*, fo. 159.

19. *The Commons ſucceeding in the Property of the Peers and Church (whoſe Lands five parts of ſix have been alienated and wholly is come into the ſame hands with thoſe of the Kings and Peers) have inherited likewiſe according to the courſe of Nature their Power; but being kept from it by the Eſtabliſhed Government (which not being changed by any lawful Acts of State) re-*

mains ſtill in being formally, whereas vertually it's aboliſhed, ſo that for want of outward Orders and Proviſions, the People are kept from the exerciſe of that Power which is fallen to them by the Law of Nature, and thoſe who cannot by that Law pretend to the ſhare they had, do yet enjoy it by virtue of that Right which is now ceaſed, as having been but the natural effect of a cauſe that is no longer in being, fo. 160.

20. *Every Parliament ſeems a perfect State of War, wherein the Commons are tugging and contending for their Right, very juſtly and very Honourably; yet without coming to any point, ſo that the Court ſends them packing, and Governs ſtill worſe and worſe in the Vacancies, being neceſſitated thereunto by their Deſpair of doing any good in Parliament; and therefore are forced to uſe horrid Shifts to ſubſiſt without coming to any point, and to keep it off,* fo. 168.

21. *The*

21. *The Government is broken, because it was founded upon Property, and that foundation is ſhaken, therefore you muſt either bring Property back to your old Government, and give the King and Lords their Lands again, or elſe you muſt bring the Government to the People as it now ſtands*, fo. 175.

22. *For 200 years our Government hath been Crazy*, fo. 174.

23. *It's not to be imagined that either Chriſt or his Apoſtles did ever account that the true Religion ſhould be planted in the World by the framing of Laws, Catechiſms, or Creeds by the Soveraign Powers and Magiſtrates, but ſhould have a Progreſs ſuitable to the beginning*, fo. 179.

24. *The Clergy will have a ſhare in the Soveraignty*, &c. *This is and ever will be a Solœciſm in Government; beſides a manifeſt Contradiction to the words of Chriſt, who tells us, his* Kingdom is not of this World, *fo.* 178.

25. *If*

25. *If you look into Scripture you will find, That the Apoſtles did not reckon that the Religion they planted ſhould be National in any Countrey, and therefore have given no Precepts to the Magiſtrate to meddle in Matters of Faith and the Worſhip of God, but Preached that Chriſtians ſhould yield them Obedience in all lawful things*, fo. 179.

26. *The Prieſts to get Riches and Power, the Emperor to get and keep the Empire, complyed together to ſpoil our Holy Religion, to make it fit for the Government of this World, and to introduce into it all the Ceremonious Follies and Superſtitions of the Heathen; and which is worſe, the Power of Prieſts both over the Perſons and Conſciences of Men*, fo. 181.

27. *The Cauſe of all our Diſtractions coming from the King's having a greater Power already than the Condition of Property at this preſent can admit of without Confuſion and Diſorder; it's not like to mend matters for them to give him more, except they will deliver up to him at the*

the ſame inſtant their Poſſeſſions and Rights to their Lands, and become Naturally and Politically his Slaves, fo. 215.

28. *The Privy Council is no part of the Government*, fo. 232.

29. *The National Clergy cannot hope to make their Hierarchy ſubſiſt long againſt the Scriptures, and the Intereſt of the People, but by introducing the* Roman *Religion, and getting a foreign Head and Supporter*, fo. 189.

30. *The Church of* England *hath little Credit amongſt the People, moſt men being almoſt as angry with that Popery which is left amongſt us (in Surplices, Copes, Altars, Cringings, Biſhops, Eccleſiaſtical Courts, and the whole Hierarchy, beſides an infinite number of uſeleſs, idle, ſuperſtitious Ceremonies; and the Ignorance and Vitiouſneſs of the Clergy in general, as they are with thoſe* Dogma's *aboliſhed*, fo. 188. *It's a Mongrel Church*, fo. 156.

31. *The*

31. *The King must have a great deal more Power, or a great deal less; or the People must have a great deal more Power, or a great deal less, otherwise we may see in the next Age that both the King will endeavour to be altogether without a Parliament, and the Parliament without a King*, fo. 209.

32. *The King's Prerogatives as now, by a Natural Revolution of Political Circumstances are so far from continuing useful to the Governing of the People, that they are the only* Remora *and Obstacle of all Government, Settlement, and Order*, fo. 231.

33. *The Powers which now are in the Crown, and do hinder the Execution of our Laws, and prevent our Happiness and Settlement are four: 1. The Absolute Power of making War and Peace, Treaties and Alliances with all Nations in the World. 2. The sole Disposal and Ordering of the Militia by Sea and Land, raising Forces, Garrisoning and Fortifying places, setting out Ships of War so far as he can do this without putting Taxations*

tions upon the People, and this not only in the Intervals of Parliament, but even during their Session; so that they cannot raise the Trained-Bands of the Countrey or City to guard themselves, or secure the Peace of the Kingdom. 3. That it is in His Majestie's Power to Nominate and Appoint as he Pleases, and for what time he thinks fit all the Officers of the Kingdom that are of Trust or Profit, both Civil, Military, and Ecclesiastical. 4. The laying out and imploying, as he pleases, all the Publick Revenues of the Crown or Kingdom, without having any regard (except he thinks fit) to the Necessity of the Navy, or any other thing that concerns the Necessity of the Navy, or any other thing that Concerns the Safety of the Publick: So that these four great Powers may be imployed at any time as well to destroy as to Support the Government of the State; for the preventing of the Mischiefs which may ensue thereupon, he would have the Parliament Petition the King by way of Bill, that he will please to exercise these four Magnalia of Government with the Consent of four several Councils to be appointed to that end,

end, and not otherwise; that is, with the Consent of the Major part of them, if any of them dissent; in all which Councils, His Majesty, or who he pleases to appoint, shall Preside, the Councils to be named in Parliament, for all the Number, and every year afterwards a Third part; so each year a third part shall go out and a Recruit of an equal number come in, fo. 237, 238, 239, 240, 241.

34. *If the King will not agree to these Regulations, then to persue the Act of Succession for the Exclusion of his Royal Highness,* fo. 193.

35. *All great Officers, as Chancellor, Judges, General Officers, and others to have their Allowance and Approbation by Parliament,* fo. 259.

36. *No new Boroughs shall be enabled to send Members to Parliament, except they shall be capacited thereunto by Act of Parliament,* fo. 251.

37. *No Peer for the future to be made but by Act of Parliament, and that to be Hereditary in the Male line,*

for

for they must be exempted from depending absolutely upon the Prince, fo. 252.

38. *The King, Lords and Commons are Co-ordinate*, fo. 168. 257.

All which wild and unwarrantable Principles and Maxims, are herein Confuted; and His Majestie's Royal Prerogatives, Preheminences, and *Jura Coronæ*, Asserted by the fundamental Constitution, and Ancient Laws of this Kingdom.

A DIALOGUE

Between

Platophilus and *Britanicus*,

In answer to

Plato Redivivus.

Platophilus. Well met Sir, I kiss your hand, and am much pleased to see you in so good a state of health; I pray what News in Town?

Britanicus. I know none.

Platophilus. Have you seen a Book lately set forth called *Plato Redivivus*, wherein are comprised the best

Aphoriſms of State; and the moſt noble and generous *Maxims* of Government which the Sun ever yet ſaw. The Author certainly was a Perſon of moſt ſtrong and vigorous parts, and of a moſt advanced Judgment; He is the great *Eſculapius* of State of our Age; for he hath compoſed an *Elixir Vitæ* extracted out of *Oceana Simanca* and *Junior Brutus*, which rightly taken, will give (as he doth aſſure us) a reſurrection to the crazie, and Cadaverous body of the *Britiſh* Monarchy, wherein the whole Maſs is corrupted, and the Patient is become almoſt incurable, if not timely applyed: I muſt tell you, this Book doth make a great Noiſe in the World, and is much Magnified by the Godly and Sober Party.

Britannicus. I doubt not but it hath given a crack beyond *Aurum fulminans*; and I much wonder that it hath not awakened the Geeſe in the Capitol: I can eaſily believe that the Godly Party are much delighted with it, and it's highly magnified by them, for they are much pleaſed with

with new *Phainomina*'s in Church and State, especially if they be framed according to the Institutes of *Oceana*, and calculated to the Meridian of their own Phantasie; I must tell you, they are like the *Neopolitan* Coursers in *Boccaline*, upon all occasions ready to cast their Rider.

Plat. Sir, let me beg this of your generosity, that you will be pleased to read this excellent Book.

Brit. I have, and soberly considered the pernitious Maxims in it, and have made my Remarks thereon.

Plat. I pray, Sir, give me your opinion of it; for I value your Opinion beyond any mans Judgment.

Brit. I have read of the Citizens of *Abdera*, that one hearing of a strange Tragedy, full of seditious designs, they were all strucken into such a fit of Phrensie, that for many days after they

did nothing but act the ſame Tragedy, with furious geſtures in their Streets; I would it were not too late to wiſh that this *Plato Redivivus*, and other ſeditious Pamphlets might not work the ſame effect upon the Godly Party: Amongſt the many Libels againſt the Government, I have not obſerved any which hath more intoxicated the People than this; It's a *Hotch Potch* of all the antimonarchical Principles in 42. dreſſed up after the Mode of a new *Oleo*: The other Spyders ſpun their Webs for enſnaring only weak and ſilly flies; but this catches the more Conſiderate with ſome ſhew of art tho mixt with a great deal of deſign.

Your *Plato Redivivus* hath laid moſt exquiſite Principles for the Subverſion of the beſt Monarchy and Government in the World; in other things he hath out-done *Junior Brutus*, and the reſt of the Rabbies; but in this he hath out-done himſelf; as for the *Britiſh Monarch*,

Monarch, he hath labour'd to take all the *Regalio's* and glory from him, and to make him a Pageant of State; by the Chymistry of his Politicks he doth endeavour to extract all the Vital and Spirituous parts of Majesty; and so leave to the Nation nothing but a *Caput Mortuum*.

Plat. Sir, *Plato Redivivus* doth much in my Opinion Magnifie his present Majesty, and doth express all Allegiance and Loyalty to him, *fo.* 18. 19. 249.

Brit. Sir, those expressions are but as delusory Mediums drawn over the Eyes of Majesty, that he may more securely be *Regiæ dignitatis homicida*: do you not know that Physitians use to guild their Pills, that the Patient may swallow them the better.

Plat. You may have what Opinion you please of that Excellent Person; I know that in 42, and for many years after he was a most active and Eminent person, and made the best Figure in all Affairs

of State in those Times, I hope, Sir, you will pardon this freedome; I must beg of you to know what the Monarchy of *England* is; and how it's the best Government in the World as you are pleased to say?

Brit. I shall endeavour to serve you herein; the Government of *England* is a rare and admirable mixture of Monarchy, Aristocracy, and Democracy, and it's so excellently tempered by the wisdom of our Ancestors, as that it gives the Kingdom the conveniencies of all; without the inconveniencies of any one, so far forth as by human wisdom they may be prevented. The supream power of making Laws whereby to govern and Judge the People in time of Peace; and likewise the Power of Arms for preventing Invasions and Insurrections, Rests in the King immovably, whereby he is sufficiently inabled to protect his People; The Laws by which he is to govern cannot be made but by consent of the House of Peers, and by

by the Commons duely choſen; The King cannot make uſe of his high and Supream Power to the prejudice of thoſe for whoſe good he hath it, the Houſe of Commons (as an excellent Conſerver of Liberty) is ſolely intruſted with the firſt propoſitions concerning the Levies of Money (the Sinews of War and Peace) and for the impeaching of thoſe who for their own ends (tho countenanced by the King's Commands) have violated that Law, which they are bound to protect; The Lords being truſted with judiciary Power, are an excellent Skreen, and Bank between the King and the People to aſſiſt each againſt the encroachments of the other.

The Laws which do ſupport this Monarchy do excel all other Laws, for they give unto the King the Moſt Noble and Royal Prerogatives, and yet maintain withal the ingenuous Liberty of the Subject; theſe Laws are ſo framed and fitted to the nature and diſpoſition of the People, as I may ſay, they are con-

natural to the Nation; the People have made their own Laws out of their own wisdom and experience, not borrowing a form of a Common-wealth, either from *Rome* or *Greece*, as other Nations have done; but having sufficient provision of Law and Justice within the Land, have no need *Justitiam et Judicium ab alienigenis emandicare*; as King *John* wrote most nobly to *Innocent* the third: Neither could any one man ever vaunt, That like *Minos*, *Solon*, or *Lycurgus*, he was the first Law-giver to this Nation: for neither did the King make his own Prerogative, nor the Judges make the Rules and Maxims of the Law by which they Judge; nor the common Subject prescribe the Liberties which he enjoyeth by the Law, but long experience, and many Trials of what was best for the common good, hath produced them.

Math. Paris fo. 215.

Sir *John Davis* Preface to his Reports.

These Laws are grounded on Reasons ancienter than Books consisting in unwritten Customs, yet so full of Justice and Equity, that our Honourable Predecessors many times

times defended and maintained them, with a *Nolumus mutare*; and so ancient, that from the *Saxons* days, notwithstanding the injuries and ruins of time, they have continued in most part the same, as may appear in the old remaining Monuments of the Laws of *Ethelbert* the first Christian King of *Kent*, *Ina* the King of the West *Saxons*, *Offa* of the *Mercians*, and of *Alfred* the great Monarch who united the *Saxon* Heptarchy, whose Laws are yet to be seen published (as some think) by Parliament, to the end; *Ut qui sub uno rege, sub una lege regerentur.*

Plat. Notwithstanding you glory so much in your *British* Monarchy, *Plato Redivivus* will tell you, *Fo.* 119, 118, 117. That the King hath no Authority of his own but what was first intrusted in him by the Government of which he is head; nor is it to be imagined, that the People would give him more Power than what was necessary to govern them; and when the *Militia*, or any other Power which is

is given him for the Safety of the People, ſhall be miſemployed, it's a great Violation of the Truſt repoſed in him by the People; and a making of that Power which is given him by the Law, unlawful in the execution, and cannot be abuſed without great Danger to his Miniſters, and even to himſelf.

Brit. It's true, where the Monarchy is Elective, and the Prince comes in ſolely by the favour of the People and receives the Crown from them, there the Compacts between them muſt be Obſerved;

Inſt. part. 1. fo. 158.

But the Monarchy of *England* is no ſuch, for Sir *Edward Cooke* (the Oracle of the Law) ſaith, that by the Laws and Ordinances of ancient Kings and Eſpecially of King *Alfred* it appeareth, That the firſt Kings of the Realm had all the Lands in demeſn; and les grand Mannors and Royalties they reſerved to themſelves; and of the remnant, they for the defence of the Realm enfeoffed the Barons of the Realm with ſuch juriſdiction as the Court

Court Baron now hath; and with this agreeth the Laws of *Edward* the Confeſſor:

From whence theſe Corollaries will neceſſarily follow, 1. If the firſt Kings of this Realm had all the Lands of *England* in demeſn, then according to the Doctrine of *Plato Redivivus*, *Fo.* 40, 45, they had all the Power: for Power follows Property, *ergo*, the Power and Authority was originally in the Kings; and not to them derived from the Government or People.

2. The grand Mannors and Royalties they did reſerve to themſelves and ſo were not given to them by the People.

3. The *Militia* was Originally founded in the Tenures, but the Kings did create the Tenures, (for they gave the remnant of the Lands for the defence of the Realm) *Ergo*, the *Militia* was not given them; but Eſtabliſhed by the firſt Kings for the defence of the Realm, and they had the ſole Power and diſpoſe

diſpoſe of it in themſelves; and if the Tenants did not do and perform ſuch Services as by the Tenures they were oblieged, it was a forfeiture of their Lands, for they were given *pro defenſione regni*.

30 *E.* 1. *Roger Bigot* Earl of *Norfolk* Marſhal of *England*, *Humphrey Bohun* Earl of *Hereford* and *Eſſex* Conſtable of *England*, and *Gilbert de Clare* Earl of *Gloceſter* and *Hertford*, Perſons which had Princely Eſtates, were by the King's Command to go unto his Wars in *Gaſcony*, they refuſed under pretence that the warning was too ſhort; whereby the King was ſo much diſpleaſed, that *Bohun* and *Clare* to eſcape the ſeiſure and forfeiture of their Lands, and to purchaſe his Favour again, were glad each of them to marry one of his Daughters without any Dowry, and Surrender their Earldoms, Honours, Offices and Lands unto him, and take back Eſtates thereof intail to them and the Heirs of their bodies upon their Wives to be ſeveral-

ly

ly begotten; and *Bigot* alſo ſurrender'd to the King his Earldom and Marſhals Rod, together with all his Lands, taking back a grant of an Eſtate for life in his Honours and Lands, the reverſion to the King if he ſhould not have Iſſue of his body begotten; hereupon the King pardons them in Parliament. I cannot conceive if you ſeriouſly conſider theſe actings of King *E.* 1. that you will think that he had this Power from the People.

Pat. 30. *E.* 1. *Walſingham* ypodigma *Hewſter* fo. 487. Clauſ. 30 *E.* 1. Parl. 30. *E.* 1.

But admit the firſt Kings were choſen by the People, and all Power were to them given; it will neceſſarily follow, that our Fore-Fathers were a very bountiful (if not a prodigal People) to give all the Lands of the whole Kingdom to their Kings, with liberty for them to keep what they pleaſed; and to give the remainder to their Subjects, clogged, and cumber'd with a condition to defend the Realm, and in caſe of refuſal a forfeiture of their Eſtates; I do believe that *Plato Redivivus* will think that they had more

more prudence in tham, then to commit ſo wild an Act.

Plat. I did think the Monarchy of *England* had been Elective, and that all the Prerogatives Prehemi-nences and Powers wherewith the Kings have been inveſted, were gi-ven them by the People; and they were but Truſtees for their Safety and Benefit: But ſuppoſe that the People ſhould elect a Perſon to be their King, hath he not the Regal Power from them? he had none be-fore; if he had, to what purpoſe did they Elect him? and if they have Elected ſuch a Perſon to be their King, have they not a ſuper-intendent Power over him; and may they not call him to account for his male-adminiſtration?

Brit. It hath been often declared in Parliaments, the Monarchy of *England* to be hereditary; and that the crown by the Laws of God and Nature doth deſcend, according to Birth-right and Proximity of blood, *Rot. Parl.* 39 *H.* 6. n. 10. *Rot. Parl.* 1 *E.* 4. n. 8. *Rot. Parl. tent. apud Weſtm.*

Rot. Parl. 39. *H.* 6. n. 10. Rot. Parl. 1 *E.* 4. n. 8. Rot. Parl. 1 *R.* 3.

dis

die Veneris 23 *die Jan. Anno regni regis* R. 3. *primo*, therefore 'tis not Elective.

The Kingdome of *England* is a Monarchy ſucceſſive by inherent Birth-right, of all others the moſt abſolute and perfect form of Government; excluding *interregnums*, and with it infinite inconveniencies: *Cooke's* preface to his 4 Report *Fl. Wigorn*, fo. 633. 624. *Math. Weſtm.* Fo. 212. *Brompton* Fo. 932. *Rot. Parl.* 1 *H.* 4. *M.* 20.

Cok. lib. 4. *Præfat. Fl. Wigorn*, fo. 633. 624. *M. Weſtm.* fo. 212. *Bromp.* fo. 932. *Rot. Par.* 1 H. 4. *M.* 20.

The Parliament upon the death of Queen *Elizabeth* did Recognize and acknowledg, That the Imperial Crown of *England* &c. by inherent Birth-right, lawful and undoubted Succeſſion, did immediately deſcend and come unto his Majeſty King *James* 1 *Jac. c* 1.

1 *Jac. c* 1.

The King is the Supream head of the Common-wealth 24 *H.* 8. *c* 12. he is Gods Lieutenant, *Inſt. Parl.* 2. Fo. 631. He is raiſed up by God and ſet in the Seat Royal over us. 1 *E.* 6. *c* 12. 1. *&* 2. *Philip et*

24 *H.* 8. *c* 12. Juſt. part 2. fo. 631. 1 *E.* 6. *c* 12. 1. *et* 2 *Ph. et Mar.* *c.* 8. 26 *H.* 8. *c* 1. 1 *Eliz. c.* 1. 1 *Jac. c.* 1.

et Mar. c 8. and the Crown of *England* is an Imperial Crown 26 *H.* 8. *c.* 1. 1 *Eliz. c* 1. 1 *Jac. c* 1.

So that the King of *England* is not Elective, neither doth he derive any Legal Power from the People, and if he be intrusted with any power for the Safety and well Government of the People, it's not from them that he is intrusted, but by God; by whom all Kings Reign.

Although a Multitude of people amongst whom there is no form of Government Established, should choose a person and intrust him in the Government, the power so determined by their Vote unto a particular person is from God still, not only as the Author and universal cause of all things, but as from the immediate efficient cause.

When Bishops and Presbyters were anciently Elected by the People, their Order or Power was not from the People, but immediately from God; the People only nominated

nated or designed the Person; but neither did or could they confer the Power or Order of the Priesthood: Surely you cannot believe that a Horse was the author of *Darius* his Power; and yet was the neighing of his Horse the means by which the Kingdom was determined unto him before all other *Persian* Lords.

The Vote or Consent of the People is only a *Medium* used in the conveyance of this Regal power from God the only author; and tho they sometimes may instrumentally operate in the conveyance or specifying of the power, and designing the Person, yet they have no causal influx at all into the power conveyed, God only is the efficient cause of it.

The People may *applicare personam potestati divinæ*, but they cannot *applicare potestatem divinam personæ*.

Therefore it is, that God challengeth to be acknowledged the Author of Regal Power; *Dan.* c. 2.

2. He (God) *removeth Kings, and ſetteth up Kings*; the God of Heaven *doth give thee a Kingdom, Power*, &c. *Dan.* c. 4. *Cuicunque voluerit det illud.*

Hence it was that, our ever renowned Queen *Elizabeth* was acknowledged by the Parliament to be the Lawful Queen of *England jure divino*, ſo ſaith *Camb.* fo. 25. And the Parliament thought it juſt, that King *Henry* the Eight having his Kingly and Regal power given by God, (ſaith the Statute) ſhould in caſe of neceſſity, that would not abide the calling of a Parliament, by his Proclamation or Edicts provide for the Safety of the Realm.

Camb. *Eliz.* fo. 25.

If Regal power *in Specie* were conveyed or given by the People, then muſt it firſt have been in the People; for, *Nil dat quod non habet*: Now that Regal Power ſhould be in the People it's impoſſible; for it's againſt the nature of Regality to be in more than one, *Rex unicus eſto*: if the People had Regal Power, I would know good *Platophilus*

philus over whom? *multitudo deorum nullitas eſt deorum.* Were ſupream power radically and Originally in the People, and by them delegated to ſome particular perſon that ſhould govern as King, the King as their Inſtrument would but propound Laws, but the people muſt enact them: as in *Rome* while it was a popular State, and that Magiſtracy was but *beneficium populi: Leges* (ſaith *Livie*) *à Magiſtratu proponuntur, à Populo jubentur*: but which is manifeſt, that Regal power here in *England* cannot be *beneficium populi.*

After the People have conveyed their Power unto a perſon to be King; there remains no ſuperintendent power in them over him; for they have diveſted themſelves of all power by the conveyance; if it were conveyed with conditions, then under thoſe conditions it may be held againſt them; if abſolutely, then it may be held abſolutely over them.

The *Roman* Emperor was anciently chosen by the Soldiers; but did there remain in them a power over the Emperor so Elected? 'Tis recorded, that the Soldiers having chosen *Valentinian* the Elder, would have added a Colleague unto him in the Imperial Government, but the Emperor answered them, *me ad Imperium eligere penes vos erat, sed cum jam à vobis Electus sum, consortem Imperii quem postulastis, non amplius in vestra sed in mea potestate eligere situm est*; and with this answer were the Soldiers well contented: whereby it appears there remained no superior power in them.

Sozem. *lib.* 6.

If there did remain any superintendent power in the People over the King, it would then be lawful to appeal from the King to the people, as to the more supream Power; but such appeals are not Consistent with Monarchy or any Government, but necessarily tend to Anarchy and Destruction; *omnis honestæ rei Malus Judex est Vulgus*: there is no Common-wealth wherein there are not more evil than good, more

more ſimple than wiſe: if then the Majority of the people, ſhall determine upon the laſt appeal, what Judgment ſhall we be ruled by?

Plat. But may not the Prelates and Peers, and the Commons who are the Repreſentatives of all the Commons of *England*, being aſſembled in Parliament, upon ſuch Cauſes as to them ſhall ſeem juſt, and for the Peace and Tranquility of the Kingdome, exclude the next Heir from the Succeſſion of the Crown, becauſe they fear he may introduce Popery and Arbitrary power? for *Plato Redivivus* fo. 193. tells you, That if his Majeſty will be adverſe to the Cures and Remedies of the *Britiſh* Monarchy by him preſcribed, then to perſue that which concern the Succeſſion; which is the excluſion of his Royal Highneſs. And Mr. *Pryn* (that great Champion of the Peoples Rights) in his Book of Treachery and Diſloyalty, *&c.* doth there aſſert, That the Prelates and Peers have oft tranſlated the Crown from the right Heir. 1 Electing and

Crowning *Edward*, who was illegitimate, and putting by *Ethelred* the right Heir after *Edgar*'s deceaſe. 2 Electing and Crowning *Canutus*, a meer foreigner in oppoſition to *Edmond* the right Heir to King *Ethelred*. 3 *Harold* and *Hardicanute* both Elected Kings Succeſſively without Title; *Edmond* and *Alfred* the right Heirs being diſpoſſeſſed. 4 The *Engliſh* Nobility upon the death of *Harold* enacted, That none of the *Daniſh* Blood ſhould any more reign over them. 5 *Edgar Atheling* who had beſt title was rejected, and *Herald* Elected and Crowned King. 6 *Maud* the Empreſs, the right Heir, was put by from the Crown by the Prelates and Barons, and *Steven* Earl of *Mortain*, who had no good Title was proclaimed King: and many other Preſidents I could produce ſince the Conqueſt, not only in this Kingdome, but in other Kingdoms where the right Heir hath been upon juſt Grounds and Reaſons of State, excluded from the Succeſſion.

Brit.

Brit. A facto ad jus non est argumentum concludens, tho the right Heirs have been excluded and set aside, it doth not follow, that the act was just and warrantable; I pray observe, those exclusions from the Succession were not the acts of the Commons of *England*, for they would have abhorred such unjust practice; but it was the act of Popish Prelates and Peers, which ought to be no President; and I have declared to you, that the Monarchy of *England* is hereditary *successivè*, and that by the Laws of God and Nature, the Crown doth descend according to Birth-right and Proximity of blood.

And that the King is raised up by God, and set in the Seat Royal over us, 1 *E.* 6. *c.* 12. 1. *et* 2 *Ph. et Mar. c.* 8. *ergò* not to be pulled down or displaced out of that Seat Royal by any power upon Earth, without a violation to the Laws of God and Nature.

Mr. *Pryn's* preface to the Abridgment of the Records.

By the Statutes of 16 *R.* 2. *c.* 5. the Crown of *England* hath been at

all times so free, that it hath been in no Earthly subjection, but immediately subject to God in all things touching the Regality of the same Crown, and to no other; if it be immediately subject to God then he being King of Kings it's only at his dispose, not by any earthly power, except there can be produced a Commission from God so to do: if the Crown hath been in no Earthly subjection, then it hath no superior upon earth, and so not to be disposed of by any Power upon Earth.

And Mr. *Pryn* in his Preface to the Abridgment of the Records by Sir *Robert Cotten* tells you, that the setting up of Kings (which must be by the exclusion of the right Heir) meerly by Parliaments and their own power in them, without any true hereditary Title, have seldom answered the expectatives of the Lords and Commons in the preservation of their just Laws and Liberties, but themselves have at last been branded for Tyrants, Traytors, Murderers and Usurpers, their Poste-

Posterity impeached of High Treasons and disinherited of the Crown by succeeding Parliaments. 1 *H.* 4. n. 79. 101. 116. 2 *H.* 4. n. 23. 1 *H.* 5. m. 8. 39 *H.* 6. 1. 1 *E.* 4. n. 9. 10. 11. 17. 18. 1 *R.* 3. 1 *H.* 7. c. 6.

1 H. 4. n. 79. 101. 116. 2 H. 4 n. 23. 1 H. 5. m. 8. 39 H. 6. 1. 1 E. 4. n. 9. 10. 11. 17. 18.

Therefore the next Heir to the Crown cannot be justly excluded from Succession; and I pray remember,

Et genus humanum & mortalia temnitis arma,
At sperate deos memores fandi atque ne fandi.

Plat. Sir, I have received much satisfaction by your discourse; but I pray be pleased to inform me when and how Government in the World began, and what Government was established; And whether Paternal Government hath not been the beginning of Monarchies; for *Plato Redivivus* fo. 29. 30. doth assure us, that it's concluded by all Politicians, That necessity made the first Government, but which of the Governments now extant, or that have

have been formerly, was first, it's not possible to be known; but he thinks it must be taken for granted, that whatsoever the Frame or Constitution was first, it was made by the perswasion and mediation of some Wise and Vertuous Person, and consented to by the whole number.

Brit. Sir, you have put a hard Province upon me; for the Original of Government, like the head of *Nilus*, is with much difficulty found out; yet I shall with all tenderness and submission to more advanced heads, deliver my Sentiments.

In the first Chapter of *Genesis*, we read of a holy consultation about the making of Man, the result was, *Let us make man in our Image, after our likeness, and let him have dominion*; the original is, *vijerdu*, the Root *Rada*, which besides *Dominari* to bear rule, signifies *accipere idque ab alto*, to receive from above: so that *Elohim*, is the efficient cause of Dominion, and not made

made by the perſwaſion or mediation of ſome wiſe and vertuous perſon, as your *Plato* would have it; it's *Elohim* in the plural Number; and it's ſo uſed as Rabbi *Aben-Eſra* obſerveth in honour of the Plurality of his Powers, and Rabbi *Bechai* in plain terms tells us, That it's here and elſewhere ſet down *Elohim*; not *El*, nor *Eloah*, for that all the powers that are, are in him, and of him; and that whoſoever hath any juſt Title to any manner of Juriſdiction or Power, hath it of him, the fountain of all Authority.

Rab. Aben-Eſra, in locum.
Rab. Bechai in prim. Gen.

Here is the firſt Signiture and mark of Soveraignty which God ſtampt upon Man, after the death of *Adam* this was to come unto *Cain* his eldeſt Son, *Gen.* ch. 4. v. 7. *Unto thee ſhall his deſires be ſubject, and thou ſhalt rule over him*; that is, have Dominion and Soveraignty over *Abel*: and this right of Dominion by the Univerſal and Eternal Law of God in ordinary courſe (and mankind was not to interrupt or diſturb it, unleſs God ſent his

Gen. 4. 7.

his extraordinary Commission) was to descend to the first born: for he
Deut. 21. 17. is the first of his strength. *Deut.* 21. 17. (as having the Title of the strong God) and therefore the right of the first born is his.

After which the Elders or Fathers of Families successively had by
Gen. 14. their Eldership not only Paternal,
Exod. 32. but Regal power; as it doth appear by their making War, and executing Sentence of Death upon Offenders: and from these original stock-fathers, Kingdoms and Monarchies, I suppose for the most part, have had their beginning without popular Election in their first Commencement; But Violence of War, Vulgar Commotions and otherwise may in most places have interrupted and altered the course of Succession contrary to this divine institution; upon which occasion popular Election may have interposed; but the King once Elected and Seated in his Throne, is thenceforth deemed to reign by that Paramount Right, unto which the Peoples Election is but a restitution,

tution, or as that Learned Hiſtorian; *Kings are made by God and Laws Divine, and by Humane Laws only declared to be Kings*; and thereupon he Obſerves, that *David* thought himſelf accountable only to God; *Tibi ſoli peccavi.* So that Kings are not Kings becauſe they are Elected, but they are Elected becauſe they are Kings; and I do not obſerve that the People have any original right in them to Elect a King, tho *de facto* it hath been done by them.

Sir *Walter Rawley* lib. 2. Hiſtor.

Plat. Sir, I am fearful this goodly Fabrick of the *Britiſh* Monarchy whereof you do ſo much glory, hath had no ſure Foundation for many years to ſupport it, and therefore can be of no long continuance or duration; for as *Plato Redivivus* ſaith, *fo.* 35. 40. 54. *That Empire is founded in Property, and he that hath the moſt Property hath the moſt Power, and he that hath no Property hath no Power*: But the Peers of *England* for want of Providence and Polity of former Kings, having ſquandred away their great Eſtates in Lands

(by

(by their luxury and folly) which they formerly had, which have been within these 200 years by the lesser Gentry and the Commons purchased, hath been so far from advantaging the Crown; that it hath made the Country scarce governable by Monarchy, *fo.* 37. for upon the alienation of their Lands, there must necessarily follow an alienation of their power: as it is excellently demonstrated by *Plato Redivivus*, fo. 52. *Moses*, *Theseus*, and *Romulus*, founders of *Democraties*, divided the Land equally; *Lycurgus* who intended an Optimacy, made a certain number of sharers which he intended to be in the hands of the People of *Laconia*; *Cyrus* and other conquering Monarchs before him took all for themselves and Succession, and as long as they observed their first institution of fixing of Property; they flourished and grew great in the World; but where this apportioment of Lands came to change, the Government changed with it, or was wholly in a state of confusion; the consequence is, That the natural part of the

the Government of *England*, which is Power, is by means of Property in the hands of the People; and they having the greateſt intereſt in the Property, they will and muſt have it in the Empire.

Brit. In all Ariſtocratical and Democratical States, it's their true intereſt to preſerve their Prime and Fundamental Principles by which they were firſt conſtituted; to keep their Subjects in *æquilibrio* and equality if poſſible, and to be watchful that none of them do taper up and grow over great, and popular; for by that means they will be apt to be inſolent, kindle into factions, and ſo may endanger the Peace and Tranquility of the State, if not ſubvert the Government: But how the ſhifting and change of the Property or poſſeſſions of Lands, from the King and Peers to the Commons, ſhould work a change in the Government of *England*, I muſt profeſs I am to learn.

If you will believe an antient Cuſtomary, being a Treatiſe of the Anti-

Sir *John Davis*'s Case of Tenures.

Antiquity of Tenures, it's there said, That the first *British* King divided *Britany* into 4 parts: He gave one part to the *Archiflamines* to pray for him and his Posterity; the 2*d* part he gave to his Earls and Nobility to do him Knight-Service; the 3*d* part he divided amongst Husbandmen to hold of him in Soccage; the fourth part he gave unto Mechanical persons to hold in Burgage; by this Customary it doth not appear that the King had any Lands in Propriety, but all in Soveraignty, and I am apt to think that he and succeeding Kings did govern Dispotically laying what Taxes and Impositions upon the Subjects as he and they pleased, for the support of the Royal Dignity, and Exigencies of State; and they were more Potent, and mightier in power than if they had kept all these Lands in Demesn; Property and Possession of Lands have ever been in *fluxu* without any change of Government in *England*, and it doth subsist still,

All

All changes in Government come from ſome diſtempers *ab intra*, or *ab extra*; But in the *Britiſh* Monarchy where the King hath the ſole power of the Militia at his Command, and all the Lords Lieutenants and Deputy Lieutenants (which are ſuppoſed to be faithful to him) at his devotion; there can be no danger to the Government.

But in caſe any diſtempers ſhould grow out-ragious; his Majeſty may pleaſe to Aſſemble his great Council the Parliament, which is or ought to be the great Conſervator of the Peace, and the only Bulwark againſt all Diſtempers in the State; and while the Lords and Commons do keep themſelves within their limits and bounds, the Government is impregnable: ſuppoſe it to be true what your *Plato Red.* ſaith *fo.* 139. *That the* 40th *part of the Lands which were at the beginning in the hands of the Peers and Church, is not there now*; certainly it's much more ſafe for the Government that it is ſo; for being in the hands of ſo many, they are leſs Conſiderable

than if those great possessions were in the hands of some few Peers, except you will imagine all the Commons of *England* will joyn as one to the subversion of the Government, and forget their Allegiance to their Natural Prince; the King of *England* is an absolute Monarch, and the fidelity of his People is due unto him by many Sacred Tyes, and Ligatures; and tho the Commons have the greatest share in the Lands and Possessions of the Kingdome; it will not follow, that they will have it in Authority and Jurisdiction; A company of Bravo's have power to set upon you and take away your Purse, but they have no Authority.

If a Commoner, or suppose as many of them as you please, have great Estates, yet if he or they have no Authority or Legal Power to them from the King derived, they are but as Cyphers, and insignificant; they may be disgusted, but can act nothing to the prejudice of the Government, so long as the King keeps the Militia in his hands

and

and at his disposé (which is the Safety of the King and People;) we see by experience, that if a person who hath no property or possession in Lands, is made a Justice of Peace in his Country, he is more considerable, then any person there, of the greatest Estate without Authority, and may command him.

The Commons of *England*, without the Royal Authority, are nothing so considerable as the Peers formerly were, or can be any ways troublesome to the Government, for the Tenants and Vassals of the Peers had their dependencies solely upon their Lords, and they had great possessions from them performing some few Services, and paying small Rents; but now the Commons tho they have nine parts of the Land in the Kingdom as your *Plato Red.* fo. faith, yet they letting their Lands to their Tenants at such improved Rents, that if their Tenants pay their Rents, their Land-Lords are beholden to them; not they to their Land-Lords: and to speak freely to you,

(as *dabimus petimusque vicissim*) many of those Land-Lords are not known to their Tenants, but by their oppressions, and exactions of their Rents, and some of them are of no more use in their own Country, than a Sun Dial in the grave.

If any of the People do acquire great Estates beyond the degrees of Commoners, his Majesty may make them Barrons, when he pleases (if by their Loyalty they shall deserve so great a dignity, otherwise his Majesty doth but advance those which by the Countenance of their Honour may make them more considerable, and give him trouble) to ballance the power of the Commons, as *H.* 3. did bring the Commons into Parliament by Writ to have a deliberate Vote there to ballance the Power of the Barons.

What you mean by that infallable Maxim (as you call it,) That Empire is founded in Property, I know not: for that which is *Prius* cannot be founded in that which is *Posterius*; but Empire is *Prius* to Pro-

Property, therefore cannot be founded in it. All Power and Empire is from God; But Property is from the consent of the People (as *Plato Red.* fo. 29. 30. doth assert) *ergo* Empire is *Prius* to Property; therefore cannot be founded in it, I should rather think that Property is fundamentally in or from Empire; for all Property is from the Law (take away the Law there is no Property) but all Law is from Empire, *ergo* all Property is from Empire. *Ergo* Empire is not founded in Property.

So good *Platophilus*, you may see how fallacious your Principle is, That if the People have the most Property and Possessions in Land, that they must therefore have the most Power; this is a pretty design, and a fine contrivance to make the People hate *Monarchy*, and to be in love with *Democracy*; which is their just right as having so great possessions in Land, and therefore by consequence the Power.

It was a great instance of wisedome in the Kings of *England* to abate the insolency and power of those Turbulent and Ambitious Peers, to suffer them to squander away by Luxury and otherwise their great Estates; for power is never safe when it groweth bold and doth exceed.

Plat. But why was it such an instance of wisedome to suffer the Peers to alienate their great Estates, when in a Monarchy they have been looked upon to be the support and Pillars of it? as it doth appear in *France* and *Persia*; the first being in a manner once subdued and brought into subjection by the Kings of *England*, yet afterwards by the power and industry of the Nobility and Gentry there, it was restored to it's first natural Lord; so likewise the Kingdom of *Persia* which is one while infested by the *Tartarians*, and again another while by the *Sarazens*, is yet so well defended by the *Persian* Nobility, as that it's preserved from falling under either of their Power and Obedience; and

and *Bod.* in his *Republ.* fo. 577. doth assert, That the Grandeur of *England* is supported by great and Noble Families, which being ruined, will be the ruin of that Estate; but to suffer them to alienate their Lands, is to lessen their dignity, and by consequence their Power, therefore it was wisely enacted in *Poland* by the Laws of *Albert*, and *Sigismond Augustus*, Kings in the years 1495. 1538, and by an Edict made by *Peter* Duke of *Britany*, forbidding the Common People to purchase the Seignories of Noble men upon pain of confiscation; and *Francis* the first of *France* Anno 1535. Established the same Edict under the same pain of confiscation.

Bod. rep. fo. 577.

Here in *England* the Peers have been the Bulwarks of the Rights and Liberties of the People; and for almost 40 years off and on maintained a War to defend the Government against the encroachments of King *John* and *Henry* the Third, the success was, That the Barons or Peers obtained in the

close 2 Charters or Laws for th ascertaining their Rights, by which their Lives, Liberties, or Estates could never be in danger any more from any Arbitrary power in the Prince; after these Charters were made, there were encroachments made upon them, but so long as the Peers kept their greatness, there were no breaches but what were immediately made up in Parliament. *Plato Redivivus*, fo. 107. 108.

Brit. Without doubt the Nobles and Gentry in a Monarchy are a great Security to the Government while they keep themselves within their proper bounds and *Perlieus*; but if they will grow ambitious and outragious, (as the Barons were formerly in *England*) nothing can be more Calamitous or fatal to Monarchy; the Charters which were gained by them, I am apt to think were but the Exemplificationsof the Rights and Liberties of the People; but the manner of obtaining them (by force and Arms against their Natural Soveraign) I cannot take to be very warrantable. Sir

Sir *Walter Rawleigh* ſaith, (how truly I know not) That the grand Charter was not originally granted regally and freely; for King *Hen.* 1. did but uſurp the Kingdome; and therefore the better to aſſure him againſt *Robert* his Eldeſt Brother, he Flatter'd the People with thoſe Charters; yea King *John* that confirmed them, had the like reſpect, for *Arthur* Duke of *Britain* was the undoubted Heir of the Crown, upon whom *John* uſurped: ſo theſe Charters had their Original from Kings *de facto*, but not *de jure*: and then afterwards his concluſion is, *That the great Charter had firſt an obſcure birth by Uſurpation; and was foſter'd and ſhewed to the World by Rebellion*; in brief, the King called the People to Parliament and granted them *Magna Charta*, that they might confirm to him the Crown.

Plat. It's more than ever I heard; But I pray let me know how the Barons were ſo out-ragious here in *England.*

Brit.

Brit. I shall tell you; the *British* Monarchy did groan under the weight of an Aristocracy (for so it was) when the Barons formerly had here those great Possessions in Lands and Jurisdictions, whereof your *Plato Redivivus* speaks; they would brave the Kings to their Face, call Parliaments (which was an inherent Prerogative in the Crown) without their assent, and caused such Laws there to be enacted as they pleased; whereof the Kings would often Complain; but complaints are ever unprofitable, when justice is inferior to force.

By their Power and Vassals (which had their dependency solely upon them, and were ready to execute what they commanded) they could place whom they thought fit in the Royal Seat (as you have before well observed) and cast them from it, they could raise distempers and give disquiet to the Government, and reduce their Kings and Princes to all infelicities and extremities at their pleasure, and some of them now and then lifted

lifted themſelves into the Royal Throne; and the better to Countenance their ambitious deſigns, they would pretend themſelves to be the Pillars of the Publick Liberty againſt incroaching Monarchy, and ever prevailed with ſome of the great Prelates to concur with them in ſo glorious and generous actions, which they were ready enough to do; ſo they could Imp their own wings with the Eagles Feathers.

When the Kings had formerly called a Parliament (which they did forbear to do, but upon preſſing neceſſities of State, by reaſon of the out-rages and affronts they met with there) the Peers having the ſole Power in them of granting Aydes for the ſupport of the Government; they would tell his Majeſty as the Peers did *Hen.* 3. *That if a moderate Supply would ſerve the Kings occaſions, they were content to give relief ſo far as the deſert of his cariage ſhould merit towards them*; but they always gave him ſuch a Pittance as muſt tye him to their devotion for a new Supply. Sir *Robert Cotten* riſe of *H.* 3.

Plat.

Plat. The Kings then formerly during the Optimacy of the Peers had little pleaſure to meet with them in Parliament; whereas a dutiful behaviour would have obliged the King often to have called Parliaments; for certainly nothing can be more unwelcome to Princes, than to be braved by their Subjects; I do think that they ſhould have been willing to have granted Liberal Aydes, they being for the ſupport of the Government; and upon the point they did but grant them to themſelves and for their own benefit; But I pray, the Peers being ſo backward to grant Aydes, and the King receiving ſuch Undutiful Behaviour from the Peers, (tho his Subjects) how did he preſerve the Ship of the Common-wealth from being bulged or runnined againſt ſome Rock?

Brit. Henry the Third meeting with this undutifulneſs and inſolencies from the Peers, rather than expoſe himſelf to ſo many braves and ſtrict inquiries into the Government, as he had formerly ſuffered and

and undergone in Parliament, he determined and was fully resolved to pass all the shifts that extremity of need could lay upon him, and suffer all infelicities and calamities which his disloyal Peers (by their Art and Malice could invent) before he would be beholden to them for Ayd, or support of the Government.

Plat. What course could the King take in this Ebb of Fortune?

Brit. He begins first with Sale of Lands, then of Jewels, pawneth *Gascoin*, and after that his Imperial Crown; and when he had neither credit to borrow, nor pawns of his own, he then layeth to pawn the Jewels and Ornaments of St. *Edward*'s Shrine: and in the end not having means to defray the Dyet of his Court, was enforced to break up House, (and as *Math. Paris* saith) with his Queen, and Children, *Cum Abbatibus & Prioribus Jatis humiliter hospitia quæsivit & prandia*: to demand Entertainment and dyet at

Clauſ. Anno 46 & 47. H. 3. Clauſ. Anno 37 H. 3.

at ſome Abbies and Priories; And his Majeſty confeſſed to the Abbot of *Peterburgh*, when he came to borrow money of him; *Majorem Elemoſinam fore, ſibi juvamen pecuniæ, quam alicui oſtiatim Mendicanti*, that it would be a greater act of Charity to lend or give him mony, than to one that begs from door to door. *Math. Paris*, fo. 758.

Math. Paris fo. 758.

Plat. A rare Spectacle of humane frailty; This poor Prince ſeemed to have been only raiſed up to ſhew the inconſtancy of Fortune, and vanity of Man.

But it's a ſtrange thing to conſider, that the Prelates (tho the Kings of *England* were their Patrons and Founders of all their Biſhopricks,) ſhould not obviate the misfortunes of their King and Patron, but contribute to them; for I have read, that they ever acted the buſieſt part in all the Tragedies of thoſe Times.

Brit. It's very true; therefore *Edward* the Third the 18. of his Reign;

Reign; being resolved to call a Parliament at *Glouceſter*, did ſend this Writ following to all the Biſhops.

Mandatum eſt omnibus Epiſcopis qui conventuri ſunt apud Glouceſtram die Sabathi in craſtino. ſanctæ Katharinæ firmiter inhibendo, quod ſicut Baronias ſuas, quas de rege tenent, diligunt, nullo modo preſumant Conſilium tenere de aliquibus quæ ad Curiam regis pertinent, vel quæ perſonam regis vel ſtatum ſuum, vel ſtatum Concilii ſui contingunt, ſcituri pro certo quod ſi fecerint rex ſe inde capiet ad Baronias ſuas. 18 E. 3. lib. 17.

It is Commanded, That all the Biſhops which are to aſſemble at *Glouceſter* upon *Saturday* in the morrow of St. *Katherine*; ſtrictly forbidding them as they love their Baronies which they hold of the King, that by no means they do preſume to hold Councel of any thing which doth belong to the Court of the King, or which concern the Perſon of the King or his State, or the ſtate of his Councel; knowing for certain,

certain, that if they do, the King will seize their Baronies.

Plat. But how did *Henry* 3. extricate himself out of all these infelicities and misfortunes wherewith he was incircled? and by what art did he abate or counter-ballance this exorbitant power of the Peers.

Brit. Henry 3. after the Battle at *Evesham*, where the Barons were defeated, casting about him how to settle his Crown, and Kingdom in Peace (which had been a long time turmoiled by the ambitious Peers, out of a multitude which were seditious, called the very best by Writ or Summons to Parliament; all troubles and vexations between himself and *Simon Mountfort* and other Barons being appeased, did decree and ordain, That all those Earls and Barons unto whom the King himself vouchsafed to direct his Writs of Summons, should come to his Parliament and no others. 2. To weaken that hand of Power which the Peers carried in the Parliaments, he Commandeth the 49 year of his Reign

Reign by his Writ the ſervice of many Knights, Citizens and Burgeſſes to Parliament; Now began the frequent ſending of Writs to the Commons; their aſſent was uſed in money charge and making of Laws, (for before all ordinances paſſed by the King and Peers.) 3 He cauſed an inſpection to be made into the Regalities which the Peers had uſurped over their particular Soveraigns (whereby they were as the Book of St. *Albans* termeth them,) *Quot domini tot Tyranni*, and ſeiſed them into his hands. Sir *Robert Cotton* in the Life of *H.* 3.

Plat. Were not the Knights, Citizens and Burgeſſes called to Parliament until 49 *H.* 3. as you ſeem to inſinuate?

The *Britains* had their Council, which they called *Kyfr-y-then*, by reaſon that Laws were there made, for before the arrival of the *Romans* here, they had their Councils, as it doth appear from the words of *Cæſar*. *Summa Imperii bellique adminiſtrandi Communi Concilio permiſ-* Cæſar *lib.* 5. de bello Gallic.

sa. est. Cassibellano. And *Tacitus* seemeth to ascribe the success that the *Romans* had against them, unto their neglect in the holding of such publick and Common-Councils, *Quod in Communi non Consuluerunt.*

Tacit. In vita Agricol.

The *Saxons* called their Council or Convention pitena bemote, *a meeting of the Wise men.*

Brit. I have read that *H.* 1. at his Coronation, and in the 18 year of his Reign caused the Commons to be assembled by Knights, Citizens and Burgesses of their own Election; for as Sir *Walter Raleigh* saith, *Henry* the First being an Usurper of the Kingdom, and the better to assure himself against his Brother *Robert*, being the elder Brother, he caused the Commons to be assembled in Parliament.

Claus. 49 *H.* 3. *dorso* 10, 11.

But till 49 *H.* 3. they were not Constantly called by Writ to Parliament as I take it; But in the 49 *H.* 3. there are Precepts to the Sheriffs of the Realm to send 2 Knights out of each County and also to the Cities and Boroughs

Boroughs the like number of Citizens and Burgesses &c.

And though there were several Parliaments in *E.* 1. time before the 23*d* year of his Reign, yet there is no testimony left to us upon Record of any Summons unto them till that year, and then the Writ which went to the Sheriff was thus;

Tibi præcipimus firmiter injungentes quòd de Comitatu prædicto duos milites, & de qualibet Civitate duos cives, & de quolibet Burgo duos Burgenses ac discretioribus eligi facias &c. *Claus.* 23 *E.* 1. *m.* 4. *in dorso.*

We Command and strictly injoyn you, that out of the County aforesaid you cause two Knights; and out of every City two Citizens, and out of every Burrough two Burgesses to be chosen.

The Writs of *Rot. Claus.* 5 *John. n.* 7. *dorso*, *Patent.* 8 *H.* 3. *part.* 3. *in* 4 *Dors.* and *Claus.* 38 *H.* 3. *Dors.* 13. are conceived to be no direct Summons of any Commoners or

Knights of Shires to Parliament as Members.

Plat. I doubt not to demonstrate unto you out of Records and Authentick Histories, that the Commons ever were an essential part of the Great Council of the Kingdom.

Brompton. Col. 914. *lib* 26. et *Col.* 922 *lib.* 35.

Rex Canutus begins his Law thus, *Hæc sunt instituta Kanuti Regis Anglorum Danorum Norwiganorum venerando sapientum ejus Concilio.*

Selden's Titles of Honour *Fo.* 633.

Who those *Sapientes* were, Mr. *Selden* observes from *Ingolphus*, Speaking of King *Eldred*, saith, That *in festo nativitatis beatæ Mariæ* Anno 948. *Universi Magnates regni per Regium Edictum summoniti, tam Archiepiscopi & Episcopi ac Abbates quàm Cæteri totius regni Proceres & Optimates Londoniis Convenerant ad tractandum de negotiis publicis totius regni.*

Lamb. Arch. Fo. 249, 250.

The word *Optimates*, as Mr. *Lambert* conceiveth in his *Arch* f. 249. 250. may well be interpret

to include the Repreſentative of the People or Commons.

Anno 1275 *Rex ad Parliamentum Weſt. omnes Nobiles regni ſui juſſerat congregari, in quo ſtatuta multa ad utilitatem regni fuerunt publicata.* 3 E. 1.

This Aſſembly of Nobles was the Parliament at *Weſtminſter*, where the Statutes were made by the King by the aſſent of the Arch-Biſhops, Biſhops, Abbots, Priors, Counts, Barons and all the Commonalty of the Land there aſſembled. *M Weſt.* Fo. 407, 408. *Inſt. part.* 2. Fo. 156.

Here the Commons are Comprehended under the name of *Nobles*, why not under the name of *Proceres* or *Optimates* as well? When the Traders of *London ſunt ſicut Proceres & quaſi Optimates pro magnitudine Civitatis.* *Malmſ. Hiſt. Nova.* Fo. 106.

Rex &c. *Licet Comites Barones & alii Magnates & Communitas Regni Noſtri quintamdecimam omnium bonorum ſuorum* &c. *Rot. patent.* 4. E. 1. *m* 6.

The Parliament of 15 *E.* 3. *c* 1. doth *Rol. Parl.* 15.

E. 3. n. 50. dorſ. Rot. Clauſ. 27 E. 1. m. 9. in dorſo.

doth declare, That the Statute of *Magna Charta* and other Statutes were made by King, Peers and Commons.

Lamb. de priſcis Angl. leg. c. 8. Fo. 128. R. Hoveden Fo. 343. lib. 50.

The words of King *Edward* the Confeſſor's Laws which were made *à Rege Baronibus & Populo*, Concludes that the Commons were then repreſented.

Jan. Angl. Fo. 78.

H. 1. *per Commune Concilium Baronum*, was Crowned; *Baron* ſignifies as well the Commons as the Nobles.

Fo. n. 6. ſo. 84. E. Lamb. Fo. 259.

Thoſe Towns which were ancient demeſn of the Crown, that is, in the Poſſeſſion of King *Edward* the Confeſſor and his Anceſtors, have ever ſince preſcribed to be priviledged from ſending Burgeſſes to Parliament; it muſt follow, that there were Parliaments before that time unto which they of other places did ſend Burgeſſes.

omp. ſo. 983. lmſ. Fo. 120.

William the 2d was Crowned *Convocatis terræ Magnatibus volentibus animis provincialium.*

King

King *John*'s Great Charter 17 of his Reign, was made, as Mr. *Selden* conceives, by the King and his Barons *& per liberos homines totius regni. Hac est conventio inter dominum Johannem, Regem Angliæ, ex una parte, & Robertum filium Walteri & Richardum Comitem de Clare &c. & alios Comites & Barones, & liberos homines totius regni ex altera parte.*

Selden's Titles of Honour Fo. 586, 587.

Rot. patent. 17. *Johan.* m. 13. n. 3.

5 King *John* his Queen was Crowned, *de Communi consensu & concordi voluntate Archiepiscoporum Episcoporum Comitum Baronum Cleri & Populi totius regni Rot. Par.* 5. *Jo. m.* 5. *n.* 33.

5 *Johan.* m. 5. n. 33.

P. 15. *John.* p. 2. m. 2. n. 9. *Rex Baronibus, Militibus & omnibus fidelibus totius Angliæ.*

15 *Johan. par.* 2. m 2. n 9.

4 *H.* 3. there was a Grant of Carnage, which *Bracton* says used to be *de Consensu Communi totius regni*, not being a Service or such as Tenants only used to pay, &c. *Omnes. Magnates & fideles totius regni nostri* granted *de qualibet Ca-*

Rot. Claus. 4 H 3. m 5.

rucata duos ſolidos Rot. Clauſ. 4 H. 3. m. 5. The Kings immediate Tenants alone could and did charge the reſt, when the charge was upon the Land, but this Grant could not be without the Common aſſent of the Kingdom.

If you pleaſe to read Mr. *Atwood* and Mr. *Petit*, who have Learnedly proved in their Books lately ſet out, That the Commons were an eſſential Part of the Parliament long before 49 *H.* 3.

Brit. I have not read thoſe Learned diſcourſes whereof you ſpeak, but I know the Gentlemen to be very worthy perſons, and of great Merit, but having had the honour formerly to be in the *Tower* for a conſiderable time, but much againſt my will, I there imployed my ſelf wholly in the Study of the Records; upon this very point (being in the long Parliament time) I have made a very great Collection which are now in the Countrey, and I ſhall ſend for them, if you pleaſe to read them, they ſhall be at

at your ſervice, I doubt not they will give you much Satisfaction as they did me.

I thank you for your great pains in demonſtrating this point unto me by ſo many authentick Records and ancient Hiſtories as you have done: yet with Submiſſion to better Judgments, I do conceive that the Commons before 49 *H.* 3. were not conſtantly but rarely Summoned to the Great Council of the Kingdom; and that *ex gratia regis* not *ex debito*; for if they were to be Summoned *ex debito* or *de jure*, How did it happen (that upon the ſetling and reforming of the Government in 45 *H.* 3.) only Three were ordered to be Repreſentatives for every County? 45 *H.* 3. *m.* 6. *dorſ.*

Polydore Virgil ſaith, *Illud apposite habeo dicere, Reges ante hæc tempora non conſuevisſe Populi conventum, Conſultandi cauſa, niſi perraro facere, adeo ut ab Henrico Primo id inſtitutum jure manaſſe dici poſſit*; *Polydor. Virgil hiſt.*

When

When any grand busines was to be acted in the Great Council, for the more solemnity of the Act, and that the Commons might not give any disturbance or trouble to the proceedings of the Council but acquiesce in its determinations, they were summoned; as to the Coronation of *H.* 1. who had no very good Title to the Crown, and to the granting of *Magna Charta* of King *John*, which was gained by the Sword.

You must observe, there is a great difference between *Commune* or *Generale Concilium Baronum*, and *Magnum Concilium regni*; the former some times was but *Curia regis*, or a Court Marshal for the Kings Tenants, (though the Prælates *Proceres* and other *Magnates* by vertue of their Tenures did there assemble) who granted to the King Aids and *Auxilia*, & did there act many things in relation to their Tenures, and was *Commune Concilium* to that purpose, but the *Magnum Concilium* was where all the great affairs of State; and Justice in Extraordinary

ry cases was done: King *John* made a resignation of his Crown, *Communi Concilio Baronum*, yet the Prælates, Dukes, Counts, Barons and Commons *in Magno Concilio* resolved the resignation void, because it was against the King's Oath, and without their assent: to the former Court the Tenants were obliged *ratione tenuræ* to come; but to the later they could not come but *ex gratia Regis*. *Math. Paris* fo. 236.

Where a Record makes mention of Arch-Bishops, Bishops, Abbots, Priors, Counts, Barons and all the Commonality of the Kingdom or Land &c. it doth not from thence necessarily follow that the Commons were there present, for the word (*and*) may be taken exegetically and expositive, and not introductive of any other Persons; and the word *Communitas*, doth many times extend to the Prælates and Barons; therefore it's said, *si videatur Communitati Prælatorum & Baronum*. Rot. Claus. 45 H. 3. m. 6. in dorso.

Alexander the fourth Pope, expostulating a Revocation from banishment

nishment of *Adomar* Bishop of *Winchester*, the Answer to his Sanctity begins thus, *Sanctissimo Patri in Christo Alexandro &c. Communitas Comitum Procerum Magnatum aliorumq; Regni Angliæ* &c. It was subscribed by the Earls and Great Men; and *Peter de Monte-forti, Vice totius Communitatis, præsentibus literis, Sigilla apposuimus in testimonium prædictorum.* *M. Paris Additamenta a Lond.* 1639. *fo.* 215, 216. *Communitas Comitum Procerum Magnatum aliorumq; regni Angliæ*, or whole Baronage of *England*, mentioned in the beginning of it; in whose names alone it was written, not the House of Commons or Commonalty of *England*, *Vid. M. Par. Edit. Tigur.* 1589. fo. 947. that the Barons and *Universitas Baronagii*, the Universality of the Baronage onely, not the Commons of *England* writ this Letter, not *universitas regni Popularis &c.* as Math. Paris fo. 941. doth to all observe, *London de Consensu voluntate et præcepto regis, necnon Prælatorum, Baronum ac etiam Communitatis tunc ibi præsentium:* Rot. Clauſ. 45 H. 3. m. 6. dorſ. Rot. Par.

Math. Paris Additam. *fo.* 215, 216.

Math. Paris *fo.* 947. 941.

Rot. Clauſ. 45 *H.* 3. *m.* 6. dorſ.

Par. 48 *H.* 3. *m.* 8. *n.* 10. Parl.

Here, *ac etiam Communitatis tunc ibi præsentium*, do not necessarily infer that the Commons were there present: but *Communitas* is *Prælatorium*, *Baronum*: it's not called *Commune Concilium*, because it was *Concilium Communium*, as some would have it, but its *Concilium Commune* because it did hold Cognizance of all the publick Concerns of the Kingdom. Rot. Par. 48. *H.* 3. *m.* 8. n. 10.

It was truly and rightfully called *Concilium domini Regis*, by our wise Ancestors. *Camb. Brit. fo.* 177. *Articuli Cleri. c* 8. but when the Spirit of popularity prevailed in those turbulent times of *H.* 3. *E.* 2. *H.* 5. it was often called *Concilium Regni*. *Inst. Part.* 2. fo. 624. *Camb.* Brit. *fo.* 177. Artic. Cleri. *c.* 8. Inst. part. 2. *fo.* 624.

And where a Record saith, *Et populi totius regni*, as that by you cited: *& populi totius regni* may be taken expositive, of those which were before named; for the word *Populus*, doth sometimes include Counts, Barons; as the word *Clerus*, doth Arch-Bishops, Bishops. *William* Rot. *part.* 51. Joh. *m.* 51. *n* 133.

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William the First, at his Coronation did swear, *Coram Clero & Populo*, that is before the Prælates, Counts, Barons, *Velle se sanctas dei Ecclesias et Rectores illarum defendere, et cunctum populum sibi subjectum juste regere et rectam legem statuere et tenere.*

Simon Dunel. fo. 195. *Hoveden* fo. 450.

Where the Kings formerly have granted unto some Boroughs or Towns Incorporated, That they should come to the Great Council of the Kingdom, (as I am apt to think they might to some few) *ex debito justitia*, they ought to come and could not be excluded; but at first it was *ex gratia Regis*, if not, how did they come by this Right?

Hereupon 8 *E.* 2. St. *Albans* Pleads its Antient Right to come to the Great Council, (which must be by the Kings Grant; for otherwise they had no right to assemble) and alledges, That the names of its Representatives appear in the Rolls of Chancery.

The

The Answer *per Concilium* was,

Scrutentur rotuli &c. de Cancellaria, si temporibus progenitorum regis Burgenses prædicti solebant venire vel non, & tunc fiat justitia vocatis evocandis si necesse fuerit. Rot. Par. 8 E. 2. n. 261. 247.

It's observed by the most Learned and Excellent Person Sir *Will. Dugdale*, who by his Elaborate Works hath obliged all Ages, to Celebrate his Renown, and to pay a grateful acknowledgment to his memory) that the Persons who held of the King *in Capite*, were the Representatives of most of the Commons called by some *Barones Minores*. Orig. Jud. cap. Parliament. Selden's Titles of Honour, fo. 708.

That the whole body of the Parliament hath some times had the Title of Baronage appeareth by King *H.* 3. Writ to the Sheriff of *Herefordshire* in these words,

Rex vicecomit. Heref. Præcipimus tibi, quod si aliqua gens armata per Ballivam tuam contra promissionem nuper Claus. 17 H. 3. m. 7.

nuper factam apud Glouceſtriam de Communi Concilio Baronagii noſtri ad pacem et tranquillitatem regni noſtri ſervandam; ſo that it doth appear that the mediate Tenants conſent was included in the aſſent of his immediate Superior Lord; whoſe preſence was ever ſo required in thoſe great Councils.

Robert Brother to *William* the 2d called *Rufus*, purpoſing an Expedition to the Holy Land, ſent to him to borrow 10000 Marks of Silver, with promiſe he ſhould have *Normandy* in Pledge for it; to ſatisfie his deſire he required of the Great Men of *England* a Loan of ſuch money as they were able to ſpare.

Whereupon the Biſhops, Abbots, Abbetoſſes broke in pieces the Silver and the Gold Ornaments of their Churches, the Earls, Barons, and Sheriffs *ſuos Milites et Villanos ſpoliaverunt, et regi non modicam ſummam auri et argenti detulerunt* (that is) took from their Tenants and brought a great deal of Gold and Silver to the King, whence it

R. Hoveden Anno 1096. fol. 466.

is clear, that the Lords then answered for their Tenants, it may therefore be presumed, that they at other times represented them in all Great and Publick Councils.

William the First having subjected the Natives to an intire Obedionce, seised upon a great part of their Possessions; reserved to the Crown large Proportions in every County; gave part to the Church in *Franckalmoign*, and the residue to his fellow-Adventurers in the War to be held by Knight-Services; these subdivided part of theirs to their followers, on such Conditions as rendred them Perfect Slaves to their Masters, rather than their Lords, by the possession of so much Power; therefore Barons or Freeholders, did what they pleased with their Vassals, and became very terible to the Conqueror and his Successors.

Plat. Do not the House of Commons virtually represent the whole Kingdom, or at the least 9. parts of it.

Brit. I conceive tho the *Commons* Vote in the right of their Electors, they are not above the 10th part of the Kingdom, if so much; for the Clergy in respect of their Spiritual Livings may not Vote, nor the most substantial Copyholders, Farmers nor Lessees for years, nor Inheritrixes, Joyntresses, nor Reversioners, Heirs apparent, and men that live upon Interest, and all that have not 40 s. *per Annum* Freehold Land, are excluded.: And I pray Observe, That if there be three Men stand for to be a Knight of the Shire, many times one of them carries it by 20 Voices, the Parties of the other two being against him, so that he hath little more than one third of those which appeared to be Electors.

Plat. Why then doth *Plat. Red. fo.* 167. say, That every Parliament seems a Perfect state of War, wherein the *Commons* are Tugging and Contending for their Right, yea very Justly and Honourably, yet without coming to any Point;

So

So that the Court ſends them packing, and Governs ſtill worſe and worſe in the Vacancies, being Neceſſitated thereunto by their deſpair of doing any good in Parliament, and therefore are forced to uſe horrid ſhifts to ſubſiſt without it, and to keep it off.

Brit. I pray Conſider, who hath made it a ſtate of War? Did not the *Houſe of Commons* in the Long Parliament in 1642. make it ſo, and the whole Nation a Theatre, where all the Tragedies of Infelicities and Miſeries were acted; for what Rights do the *Commons* Tugg or Contend for? and with whom do they Tugg and Contend? You ſhould do well to come out of the Clouds and name them; His Majeſty hath told you in ſeveral of his Speeches, That he is ready to do whatſoever ſhall be deſired, for the better ſecurity of our Liberties, Properties, and Religion; and he doth eſteem it his own as well as his Peoples Intereſt to Conſult often and upon all Occaſions, with his Parliament: and I can eaſily

believe, that by his Majesties continuing one Parliament (since his Happy Restauration) so long, that he would not be against their Assembling once a year, or oftner if need be.

Mr. *Pryn* his Preface to the Abridgment of the Records by Sir *Robert Cotton*.

But why does the Court send them Packing? Have not some of the Kings been necessitated to dismiss some Parliaments for their own Safety, and the Security of the Kingdom? Doth not Mr. *Pryn* tell you, That Parliaments as they are the best of all Courts, or Councils, when duely Summoned, Convened, Constituted, Ordered and kept within their Legal Bounds; So they become the greatest Mischiefs, Grievances to the Kingdom, when like the Ocean they overflow their Banks, or degenerate and become (thorough Sedition, Faction, Malice, or upon other accounts) Promoters of Corrupt sinister ends or Accomplishers of their private designs and ambitious intereſt of particular persons under the design of Publick Reformation, Liberty, Safety and Settlement.

H

His Majeſtie well knows, with what Tenderneſs and Love his Subjects are to be Treated, and that it's more Safe and Eaſie to Erect his Throne over their Hearts than their Heads, and to be Obeyed for Love rather than Fear; the Dominion founded on the later, often meeting the ſame Fate with a Houſe built upon the Sands; while that eſtabliſhed on the former, continues firm and immoveable as a Rock.

But your *Plat.* goes on and ſhews the acrimony and ſharpneſs of his Spleen; for he tells you, *That the Court in the Vacancies of Parliament, Governs worſe and worſe, being Neceſſitated thereunto by their deſpair of doing any good in Parliament, and therefore are forced to uſe horrid ſhifts to ſubſiſt without it, and keep it off.*

Sir, I muſt tell you, That this is a great Reflection on His Majeſtie; your *Plat. Redivivus* hath drawn this envenomed Arrow of (*audacter Calumniare*) out of his divine *Machiavil's* Quiver: his firſt work is

to Sully the Glory of the King, that he may more ſecurely (as he thinks) deſtroy the Kingdom: But how is His Majeſtie (for ſo it muſt be intended) Neceſſitated or Enforced to uſe horrid Shifts to ſubſiſt? If it be for want of a Royal Support, it's the Reproach and Diſhonour of the Nation, not His; and by reaſon of Exigencies of State, *Majeſtas* many times *juxta neceſſitatem habitat*; Nothing therefore can be more becoming the Wiſedom of any State, than to eſtabliſh a liberal and ample Revenue upon their Prince (whoſe greateſt Share is the Trouble, while the Subjects is Security and Eaſe) otherwiſe they will find by Experience, that *Tenuitas in Imperante eſt res admodum periculoſa.*

Plat. Is the Sole Power of Calling, Adjourning, Proroguing and Diſſolving of Parliaments in the King? If it be, it's all one, (as *Plat. Red.* fo. 113. doth excellently declare himſelf) to have no Parliaments at all, but when the Prince pleaſes; and to allow a Power in Him

Him to diſmiſs them when He will, that is, when they refuſe to do what He will: tho the King is intruſted with the formal part of Summoning and pronouncing the Diſſolution of Parliaments, (yet Lawes which oblige Him as well as us) have determined how and when he ſhall do it; which ſhews, That the King's Share in the Soveraignty, that is, in the Parliament, is cut out to Him by the Law, and not left at his diſpoſal. But our Courtiers have of late time play'd Handy-Dandy with Parliaments, and Eſpecially with the *Houſe of Commons*, (the only part which is left entire of the Old Conſtitution) by Adjourning, Proroguing and Diſſolving them (contrary to the true Meaning of the Law) as well in the Reign of our late King, as during his Majeſtie that now is, *fo.* 21. the Parliament is as Eſſential a part of the Government, as the Prince, *Plat. fo.* 110. And we have found by Experience, That the Proroguing and Diſſolving of Parliaments, is like the diſtilling of hot Waters, the

oftner they are drawn off, the ſtronger and higher they are.

Brit. Without doubt the Sole Right to Call, Adjourn, Prorogue or Diſſolve Parliaments, is in the King; and the *Houſe of Commons* never Sate after an Adjournment of the Parliament by the King's Writ.

Inſt. Part. 4. fo. 2. 27. *Sped.* fo. 645. *Dy.* fo 165. 1 *Mar. Brook.* Caſe 447.

The Learned Mr. Juſtice *Hutton* in his Argument of Mr. *Hambden's* Caſe of Ship-Money, 28 *Apr.* 14 *Car. Regis*, and Ordered by the Parliament to be Printed, ſaith, *That nothing can be done without the King's Aſſent, who hath the Sole Power to Prorogue and Diſſolve Parliaments at pleaſure.* And with him agreeth Sir *Edward Coke*, Inſt. Part 4. fo. 2. 27. *Dyer* fo. 165. The Parliament is the King's Great Council, and by the King's of this Realm, (not by the People) firſt appointed and conſtituted, for the good Government of the Kingdom; the Lords Spiritual and Temporal ſit in their Houſe by reaſon of their Baronies; the Kings of *England* (the Fountain of

of Honour) have confer'd their Baronies upon them, and by the King's Writ they are Summoned to Parliament; the Knights are sent by the Country, but the Country had Power and Command by the King's Writ to send them; as for the Burgesses, whence have they their Power but from the Borough that sent them? whence had the Borough Power to send them but from the King, who by his Letters Patents incorporated them, and gave them the Power to send Burgesses to Parliament? which otherwise they had no right to do.

The Death of the King, or Resignation of the Crown, as it was adjudged in the Case of *R.* 2. was a Determination of the Parliament, 1 *H.* 4. n. 1. 1 *H.* 4. n. 1.

If the King hath no Power to Dissolve the Parliament, then the Members may Sit as long as they please, which would be a great inconvenience to the People; for if a Member of the House of Commons doth owe you Money, or hath

hath disseised you of your Land, or dispossessed you of your Goods, or committed any violence against your Person, you have no remedy during Parliament, for his Privilege doth Protect him; and this Privilege doth not only extend to himself, but to many others; nothing can be of more pernicious Consequence, or more fatal and Calamitous to the Kingdom, than a Perpetual Parliament, it brings a destruction to all Mens Actions; real, personal, and mixt, who have to do with Parliament Men; for the Statute of Limitations confine Suits to certain years; and we shall ever remember with dread the Act of 17 *Car.* 1. by which that Parliament was perpetuated; if the King had not the Power to Dissolve them, why did the Two Houses prevail with his then Majesty to grant that Act.

21 Jac. 6.c.16.

Certainly it doth much suit with the grandeur of the King of *England* to assemble Parliaments which are the Spring and Heart that gives Life and Motion, Health and Vigor

gor to the Body of the Commonwealth; and therefore *H.* 8. told the Parliament, *That We are informed by our Judges, that We at no time ſtand ſo highly, in Our State-Royal, as in the time of Parliament, wherein We as Head, and you as Members, are conjoyned and knit together in one Body Politique:* And His late Majeſty of ever Bleſſed Memory ſignified to his Parliament, *That he was not Ignorant, that as the Multitude of the Wiſe is the welfare of the World; ſo doth the being and well-being of the* Engliſh *Nation conſiſt in the frequent Councels, Deliberations, and Acts of King and Parliament, in which Providence hath ſo blended the King and Peoples Intereſt, that like Husband and Wife, they can never be ſundred without Mutual inconvenience and unhappineſs.* H. 8.

But then Parliaments muſt keep themſelves within their juſt bounds, propoſing and adviſing, without private reſpect, what is beſt for the King and his People, leaving to the King his undoubted Prerogative; of Aſſenting or Diſſenting as he is convinced

convinced in Conſcience is beſt for the Common good, which is to be his meaſure in all actions, as the Laws are to be the Subjects Rule.

Parliaments have been formerly in high Veneration with King and People, the Number and frequency of them is a Pregnant Argument of the Neceſſity and Eſtimation of them; for before the Conqueſt, and in the Conqueror's time and after, till the end of King *Henry* the Third his time, there were 280 Seſſions of Parliament, and ſince almoſt 200; and certainly he can have no *Engliſh* Blood Channel'd in his Veins, that doth not give great Preference and Veneration to them.

Inſt. Part. 1. fo. 100.

What your *Plat. Red.* meaneth when he ſaith, *that Courtiers have play'd Handy-Dandy with Parliaments*, I know not, except he intend His Majeſty and Privy Council, by whoſe advice he doth act; which is a ſevere reflection upon His Sacred Majeſty and his Actions.

It's

It's a Riddle to me how the Houſe of Commons is now the only part left entire of the Old Government, when 9 parts of 10. of all the Lands and Poſſeſſions of the Kingdom, as your *Plat. Red.* doth aſſert *fo.* are in the hands of the Commons, then by Conſequence according to the Doctrine of your *Plat. Red. fo.* 45. their Power and Juriſdiction muſt be encreaſed, and ſo not left the entire part of the Old Government; eſpecially if you conſider *fo.* 135. what is there expreſſed; that in our Anceſtors Times, moſt of the Members of the Houſe of Commons, thought it an Honour to, retain to ſome great Lord, and to wear his blew Coat; and when they had made up their Lord's Train, and waited upon him from his own Houſe to the Lord's Houſe, and made a Lane for him to enter, and departed to ſit in the Lower Houſe of Parliament, as it was then called; I think the Honorable Houſe of Commons will give your *Plat. Red.* no thanks for his Heraldry.

If

Mr. *Pryn* in his Preface to the Abridgment of the Records by Sir *Rob. Cotton.*

If you will believe Mr. *Pryn*, a great Champion for the Privileges of Parliament in his Preface to the Abridgment of the Records by Sir *Robert Cotton*, he will tell you, That the Commons for some years have taken to themselves a Power which formerly hath not been acted, they never attached, fined, imprisoned, or censured any Person by their own Authority without the Lords, they never presumed to seclude or secure any of their own Members; nor finally to adjudge of the Legality or Illegality of their Elections, nor of the breach of their Privileges by Imprisonment or otherwise, of which the King & Lords were entirely sole Judges, as is evident, 10 *R.* 2. n. 6. 12 *R.* 2. n. 23. 1 *H.* 4. n. 79. 4 *H.* 4. n. 19, 20. 5 *H.* 5. n. 71. 78, and c. 5. 8 *H.* 4. 13. *Brok. Lib.* Part. 11. 8 *H.* 6. n. 57. 23 *H.* 6. n. 41. 31 *H.* 6. n. 36, 27, 28. 4 *E.* 4. n. 55. 17 *E.* 4. n. 36. *Crompt.* Juriſdict. of Courts, fo. 1. 8. 9. 11. *Inſt.* Part 4. fo. 10, 11.

10 *R.* 2. n. 6.
12 *R.* 2. n. 23.
1 *H.* 4. n. 79.
4 *H.* 4. n. 19.
20. 5 *H.* 5. n. 71.
8 *H.* 4. 13.
Brok. Parl. part 11. 8 *H.* 6. n. 57.
23 *H.* 6. n. 41.
31 *H.* 6. n. 36.
27. 28. 4 *E.* 4. n. 55. 17 *E.* 4. n. 36. *Crompt.* Juriſ. of Courts fo. 1. 8. 9. 11. *Inſt.* Part 4. fo. 10, 11.

And Mr. Juſtice *Hutton* in his Ar-

Argument againſt Ship-Money, *fo.* 33. ordered to be Printed by the Two Houſes of Parliament, ſaith, *That I know not whether the laſt Meeting in Parliament, either by ill Choice of the Members of the Houſe, or by the great increaſe of the Number, or by the ambitious humour of ſome Members of that Houſe, who aimed more at their own ends and deſigns, than the good of the Commonwealth, things were ſo carried, not as was uſed in ancient times, but ſo diſaſterouſly, that it hath wrought ſuch a diſtaſte of this courſe of Parliaments as we and all that love the Commonwealth have juſt cauſe to be ſorry for it.*

The Houſe of Commons anciently was Concerned only in Statutes, Grants, and Subſidies, or ſuch like, but of late they claim, as I have heard, to be made Parties in all Judgments.

1 *H.* 4. the Commons Prayed that for as much as they were not made Privy to a Judgment, that no Record be made thereof, or that they be made Parties thereunto; where-

whereunto the Archbiſhop of *Canterbury* by the King's Command, anſwered, *That the Commons are only Petitioners, and that all Judgments appertain to the King and Lords, unleſs it were in Statutes, Grants, and Subſidies or ſuch like, the which order the King would from that time to be obſerved.* 1 *H.* 4. n. 8. 4 *H.* 4. n. 19.

1 *H.* 4. n. 8.
4 *H.* 4. n. 19.

Whereas your *Plat.* ſays, that the King is intruſted with the formal part of Summoning and Diſſolving Parliaments; yet Laws which Oblige him as well as us, have determined when and how he ſhall do it; entruſted, by whom is he intruſted? not by the People; if he be, I pray produce their conveyance of this Power and Truſt unto him; it cannot be any old Preſcription, for till 49 *H.* 3. the Commons had no deliberate Vote in Parliament; but all the Laws were made by the King with the conſent of the Peers; and it cannot be imagined that they would transfer this Power unto the King, wherein their Lives, Liberties and Eſtates were ſo highly concerned,

cerned, and leave themſelves nothing but a Power to preſent the Grievances of the Nation; when all the Lands were in the King's demeſns, and he granted ſome great part of theſe to his Subjects as before is proved; do you think they in requital of ſo Noble bounty of their Prince, would appoint him a Council or a Parliament over him, and tell him how and in what manner he muſt Rule and Govern them? it had been no very good ſign of dutiful or grateful Perſons.

But how have the Laws determined when and how he ſhall do it? Why *Plat. Red.* fo. 110. tells us, that in *E.* 1. time it was Enacted, That a Parliament ſhould be held every year, and oftner if need be, which is confirmed in the time of *Edw* 3. and that no Parliament ſhould be diſmiſſed till all the Petitions were anſwered; that is, in the Language of thoſe Times, till all the Bills (which were then ſtiled Petitions) *Plat. Red.* fo. 111; and in the Reigns of *H.* 4. *H.* 5. *H.* 6. it was uſual for Proclamations to be made

in *Westminster-Hall* before the end of every Sessions, *That all those that had any matter to present to the Parliament should bring it in before such a day, for otherwise the Parliament should determine at such a day*, fo. 112.

I do agree good *Platophilus*, that there was a Law made, 2 *R.* 2. n. 4. 4 *E.* 3. c. 14. 36 *E.* 3. c. 10. (but none in *E.* 1. time that I ever met with) that a Parliament should be held every year, and oftner if need be; Observe 1. *It shall be held*, it's not said, *Shall be called every year*; so that if the King calls a Parliament, it may well become a sober Person to consider if he may not Prorogue or Adjourn it to what time he pleases: for the Parliament tho Prorogued or Adjourned, is held, and therefore the Law saith, That *Parliamentum tentum fuit per Prorogationem, & tentum fuit per Adjournamentum*. 2. Take notice the Law saith, *it shall be*; I pray who shall Judge of this Necessity? Either the King or the People must Judge, (for the Parliament is not

2 *R.* 2. n. 4.
4 *E.* 3. c. 14.
36 *E.* 3. c. 10.

in

in being) the People cannot, because then you make them the Supream Power, and above the King, which is ridiculous; if the People must judge, then they must judge either *Divisim*, or *Conjunctim*; if *Divisim*, it's Idle; if *Conjunctim*, how will all the People meet together? in Parliament they have their Representatives, because they are chosen by the King's Writ, but out of Parliament they can have none; and if they assemble in a tumultuous manner, we know what the Law is in that Case, therefore the King is the sole Judge of the Necessity of Calling, Proroguing, Adjourning, or Dissolving of Parliaments; and this Power is Originally in the King for the Preservation of the Government, and for the Safety and Well-fare of his People: when His late Majesty by Act of Parliament, 17 *Car.* c. 7. had restrained himself of the exercise of this Power, we are very sensible of the dreadful and pernicious Consequences and Effects which thereupon followed.

I do not take it to be true, that there is any such Act (as your *Pl. Red.* doth assert) *That no Parliament shall be dismissed till all the Petitions were answered*: I would have him inform us when, and by whom it was made: I conceive it hath been the Usage, but not a binding Law to answer all Petitions in Parliaments, for the Kings of *England* (out of their Tenderness and Grace to their People) when the Parliaments have been Dissolved and Petitions not answered, they have appointed Lords and other Commissioners, or his own Council to answer them; as the Parliament Rolls of 7 *R.* 2. n. 5. 21 *R.* 2. n. 74. 80, 81. 1 *H.* 6. n. 20. 4 *H.* 6. n. 21. 6 *H.* 6. n. 45. 8 *H.* 6. n. 67. 15 *H.* 6. n. 32, 33. and other Rolls do attest. And why should Proclamations be made, when by the Law and Custom of Parliament they ought to bring in their Petitions within 6 days after the Parliament sit. It's true, the King for the Ease of himself and of his People, hath sometimes caused Proclamations to be made, *That those which had Peti-*

7 *R.* 2. n. 5.
21 *R.* 2. n. 74. 80, 81.
1 *H.* 6. n. 20.

Cok. Inst. Part 4. c. *Parliament.*

tion

tions to Exhibit, ſhould bring them in by ſuch a day; as it doth appear 17 *E.* 3. n. 3. 20 *E.* 3. n. 2. 26 *E.* 3. n. 2. but it doth not from thence follow by any good Logick, that the King could not Diſſolve the Parliament till all Petitions were anſwered: Neither was it uſual in the Reigns of *H.* 4. *H.* 5. *H.* 6. to make ſuch Proclamations in *Weſtminſter-Hall*: as *Plat. Red.* doth aſſert.

17 *E.* 3. n. 3.
20 *E.* 3. n. 2.
26 *E.* 3. n. 2.

But ſuppoſe Parliaments were called at *Oxford*, *Glouceſter*, &c. and elſewhere, as they were in thoſe Kings Reigns, Muſt Proclamations be made in *Weſtminſter-Hall*? what your *Pl. Red.* means by this, *That the Parliament is as Eſſential a part of the Government as the Prince*, I know not; if you mean by the Parliament the King and the Two Houſes, I agree it; but if you intend the Two Houſes abſtracting from the King, I deny it; for the Government being purely Monarchical, may be without the Two Houſes, but not without the King; for the King is *Caput Regni*,

and the Body cannot live without the Head; the Parliament is a good Physitian, where there are Distempers in the Body Politick; but many times the Remedy is worse than the Disease, as it was in *H.*3. Reign. In the Government of *England* there is no *interregnum*, but there are Intervals of Parliament; and so by Consequence the Parliament is not as Essential a part of the Government as the King. If the Parliament be an Essential part of the Government, when the Parliament is Dissolved, the Government is Dissolved: and when we have no Parliament, we have no Government.

Plat. The two Houses of Parliament have as great a share in the Legislative Power as the King; and therefore as Essential part of the Government as the King.

Brit. The Two Houses of Parliament have no share in the Legislative Power, but it's solely in the King, tho not in the King being sole, *Solus Rex facit legem licèt non Rex*

Rex qui est solus: and this I shall demonstrate unto you.

Plat. I pray do Sir, you will much oblige me.

Brit. I shall Sir, The Legislative Power is the most Soveraign Power; *Jus dare*, is somewhat more than *jus dicere:* If then this most Supream Power were *formaliter* and *subjectivè* as well in the Lords and Commons as in the King, the Government of this Kingdom during Parliament would be Aristocratical or Democratical, not Monarchical or Regal; nor would it be a Kingdom or Realm, but an Aristocracy or a Republick, for what else is Aristocracy but the Supream Power seated in divers of the Nobility? or what Democracy but a like Power in the People? The Legislative Power then is solely in the King *ut in subjecto*, and the Consent of the Lords and Commons is no parting or sharing in the Power, but only a Condition requisite to the use or exercise of that Power in the King.

If the King be the Supream Governor then he hath the Supream Power, and by Conſequence the Legiſlative Power, which is part of the Supream Power; but that he is Supream Governor, it's proved by the Oath of Supremacy, whereby the King is acknowledged the only Supream Governor.

In our ancient Statutes the King only ſpeaks as the Law-Maker, ſome Statutes are in form of a Charter made by the King, ſometime it runs *The King Wills*, *The King Ordained*, or, *The King in Parliament*, or, *The King with the Aſſent of the Lords and Commons*, &c. and never did any Act run thus, *The Lords and Commons with the Aſſent of the King*, or, *The Lords and Commons in Parliament Ordained*, &c. And in Paſſing of Bills; to this Day the Imperative is, only by the King: *Soit fait come eſt deſire*, *Let it be as is deſired*; or, *Le Roy voet*, *The King willeth*, 22 E. 3. Pl. 25. *Le roy fiſt les leies per aſſent des Peers et de la Commons*; *Et non pas les Peers et Commons*: The King makes the Law by aſſent of the Peers and Commons;

22 E. 3. Pl. 25.

mons; but not the Peers and Commons.

Plat. I pray let me hear ſome of thoſe ancient Statutes wherein the King only ſpeaks as the Legiſlator or Law-Maker.

Brit. I ſhall Sir, *Ina* begins his Laws thus, *Ego Ina Dei Gratia Weſt-Saxonum, Rex, Exhortatione & Doctrina Ceaurdi Patris mei, Et Heddæ Epiſcopi mei, & Herchenualdi Epiſcopi mei, & omnium Aldermannorum meorum & Seniorum Sapientum regni mei, Multaque Congregatione ſervorum Dei ſolicitus de ſalute animarum noſtrarum, & de ſtatu regni mei, Conſtitui:* Chron. John Brompt. Col. 761. lib. 40. Janus Angl. fo. 124. Coke lib. 9. in Proem. *So King* Edgar, *Hoc eſt inſtitutum, Quod Edgarus Rex Conſilio Sapientum ſuorum inſtituit* Jo. Brompt. Col. 871. lib. 13.

Chron. John Brompton. Col. 761. lib. 40. Janus Angl. fo. 124. Coke lib. 9. in Proem.

King *Canutus* begins his Laws thus; *Hæc ſunt inſtituta Kanuti Regis Anglorum, Norwigenorum, venerando Sapientum cjus concilio*, Jo. Brompt.

Jo. Brompt. Col. 914. lib. 26. Col. 922. lib. 35.

Brompt. Col. 914. lib. 26. & Col. 922. lib. 35.

John Brompt. Col. 1166. lib. 61.

Henry the Firſt, *A.* 1103. 3. Cal. Aug. *Clero & Populo ad Concilium Londoniis congregat' aſtantibus Archiepiſcopis & Epiſcopis Cæteraq; Multitudine maxima Procerum & magnatum ſtatuit:* Chron: Jo. Brompt. Col. 1166. lib. 61.

Beda lib. 2. c. 5. *Hiſt. Eccleſ.*

King *Ethelbert inter cætera bona quæ genti ſuæ conſulendo conferrebat, etiam Decreta Judiciorum juxta exempla Romanorum cum concilio Sapientum conſtituit*, &c. Beda lib. 2. c. 5. Hiſtor. Eccleſ.

Radul. Dicto Imag. Hiſt. col. 536. lib. 52.

Henry the Second held a great Council at *Clarendon*, An. 1164. *Concurrentibus Epiſcopis & Proceribus ſtatuit*, &c. Radulp. Diceto Ymag. Hiſtor. Col. 536.

Henry the Third begins his *Mag. Charta* thus, *Henry* by the Grace of God, *Know ye, That We of Our meer and free will, have given theſe Liberties.*

The

The Statute *de Scaccario* 41 *H.* 3. beginneth in thſe words, *The King Commandeth, That all Bailiffs*, &c. *He Commandeth the Barons of Exchequer upon their Allegiance.* 41 H. 3. Stat. de Scaccario.

The Statute of *Marleborough* 52 *H.* 3. goeth thus; *The King hath made theſe Acts, Ordinances, and Statutes, which he willeth to be obſerved of all his Subjects High and Low.* Stat. de Marl. 52 H. 3.

3. *E.* 1. The Title of the Statute is, *Theſe are the Acts of King* Edward, and after it followeth, *The King hath Ordained theſe Acts.* In the firſt Chapter, *The King forbiddeth and Commandeth that none do hurt to any Religious Man*, &c.

6 *E.* 1. It's ſaid, *Our Soveraign Lord the King hath Eſtabliſhed theſe Acts, Commanding that they be obſerved within the Realm.*

The Statute of *Weſt* 2. ſaith, *Our Lord the King hath Ordained, That the Will of the Giver be obſerved*; And in Chap. 3. *Our Lord the King hath* Stat. wiſt. 2.

hath Ordained, That a Woman after the Death of her Husband ſhall recover by a Writ of Entry.

28 E. 1. c. 24. 28 *E.* 1. c. 24. *Our Lord the King after full Conference and Debate had with his Earls, Barons, Nobles, and other Great Men by their whole Conſent, Hath Ordain'd.*

1 E. 2. 1 *E.* 2. begins thus, *Our Lord the King Willeth and Commandeth.*

9 E. 1. The Statute 9 *E.* 1. ſaith, *Our Lord the King by the aſſent of the Prelates, Earls, and other great States, hath Ordained.*

5 E. 3. 5 *E.* 3. *Our Lord the King at the Requeſt of his People hath Eſtabliſhed theſe things which he Willeth to be Kept.*

9 E. 3. 9 *E.* 3. *Our Lord the King by the aſſent, &c. and by the Advice of his Council being there, hath Ordained.*

10 E. 3. 10 *E.* 3. *Becauſe our Lord King* Edward 3*d. hah received by the Complaint of the Prelates, Earls, Barons, and*

and also at the shewing of the Knights of the Shires, and his Commons by their Petition put in his Parliament, hath Ordained by the assent, &c. at the request of the said Knights and Commons.

The Statute of 1 *R.* 2. hath this beginning, Richard *the Second, by the assent of the Prelates, Dukes, Earls, and Barons, and at the instance and special request of the Commons Ordained.* 1 *R.* 2.

7 *H* 4. c. 15. *Our Lord the King at the Grievous Complaint of his Commons, &c. Our Lord the King being willing therein to provide Remedy, by the assent of the Lords and Commons, Hath Ordained, &c.* 7 H. 4. c. 15.

11 *H.* 4. c. 1. *Our Lord the King Ordained.* 11 H. 4. c. 1.

1 *H.* 5. c. 1. *Our Lord the King, by the advice and assent of the Lords, and special instance and request of the Commons Ordained, &c.* 1 H. 5. c. 1.

6 *H.* 6.

6 H. 6. c. 4. 6 *H.* 6. c. 4. *Our Lord the King willing to provide Remedy*, &c. *Hath Ordained*, &c.

8 H. 6. c. 7. 8 *H.* 6. c. 7. 10 *H.* 6. *Our Lord*
11 H. 6. c. 11. *the King Ordained*, 11 *H.* 6. c. 11. 23.
23 H. 6. c. 15. *H.* 6. c. 15.

I have on purpose multiplied all these Authorities to make it manifest unto you, that the Legislative Power is solely in the King; and that the Statutes and Acts were made by the Kings of *England*, and that the Higher we look, the more Absolute we find the Power of Kings in making of Laws; and in many ancient Statutes we do not observe so much as the Assent or Advice of the Lords mentioned.

Inst. Part 4. c. Parl. In ancient time, saith Sir *Edw. Coke*, *All Acts of Parliaments were in form of Petitions:* If the Petitions were from the Commons, and the Answer of them the King's, it's easie thereby to judge who made the Act of Parliament. Before the
1 H. 4. n. 8. 49 *H.* 3. all the Commoners were
4 H. 4. n. 19. Petitioners.

Plat:

Plat. Muſt the King give his Royal Aſſent to every Act of Parliament? I muſt confeſs as *Plat. Red.* obſerveth, *fo.* 124. there are not to be found any Statutes that have paſſed, without being preſented to the King, or to ſome Commiſſionated by him; but whether ſuch Addreſſes were intended for Reſpect and Honour to His Majeſty, as the Speaker of the Houſe of Commons brought to him, it's left to the Learned to Diſcourſe.

Brit. It's manifeſt, as before is proved, That the Legiſlative Power is ſolely in the King; and that the conſent of the Lords and Commons is but a requiſite condition to compleat that Power as to the doing of ſome Acts, unto which it cannot otherwiſe extend: If there be no Concurrence of the King (in whom only the Power is) what are they but a liveleſs Convention without Power? That the two Houſes without the King (as to making of any Publick Act or Law) are ſuch it will appear by theſe enſuing Proofs,

Pl.

Plowd. Com. fo. 79. *Pl. Com. fo.* 79. Although the Lords and Commons agree to a thing, without the Royal Assent, it is but as an Embrio or Issue in the Belly, and yet unborn. *Lambert's Archeion, fo.* 271. The Necessity of the Assent of all the three Estates in Parliament is such, as without any one of them the rest do but lose their labour. 11 *H.* 7. 27. *Le Roy est assentus ceo fait vn act d' Parliament: Polyd.* fo. 185. *Nihil ratum habetur nisi quod major pars utriusq; Concessu senserit, idq; rex comprobârit,* lib. 8. fo. 20. *Crompton's* Jurisdict. fo. 6. 8. *Inst.* Part 1. fo. 90. *l. Inst.* Part 2. fo. 158.

Lamb. Arch. fo. 271.

11 *H.* 7. 27.

Polyd. Virgil. Hist. fo. 185. lib. 8. fo. 20. *Crompt. Juris.* fo. 6. 8. *Inst.* Part 1. 90. *l. Inst.* Part 2. 158.

Sir *Tho. Smith,* lib. 2. c. 3. Sir *Tho. Smith* in his Excellent Treatise *De Repub. Anglicana,* lib. 2. c. 3. No Bill is an Act of Parliament or Edict of Law until both the Houses severally have agreed unto it, no nor then neither; but the last day of that Parliament or Session, the Prince cometh in Person and declares his Pleasure concerning their Proceedings, whereby the same may have perfect Life and Accomplishment by Princely Authority; and

and ſo have the whole conſent of the Realm; thoſe that the Prince doth allow, be taken as perfect Laws, and none other; to thoſe which the Prince liketh not, he anſwereth *Le Roy adviſera*, and thoſe be accounted as utterly daſhed, and of none Effect. And herewith doth agree *Bodin. De Repub.* lib. 1. c. 8. Such is the excellent temper of the Government, that the Lords and Commons without the King, or the King without them, cannot act any thing to oblige the Subject.

Bodin de Rep. lib. 1. c. 8. *Inſt.* Part 4. fo. 25. 14 *R.* 2. n. 15. 13 *H.* 4. n. 25.

Plat. Is the Speaker of the Houſe of Commons preſented to the King in Complement, hath the King a Prerogative to Name the Speaker, and to Refuſe any Perſon that ſhall be preſented to him?

Brit. Certainly he hath, for the Commons without the lieve and licence of the King cannot chooſe a Speaker, *Elſing*'s *Mod. tenend. Parliament.* fo. 66. But the firſt Day of the Meeting of the Parliament, the King by the Lord Chancellor or Keeper doth Command them in the

Name of the King to go to the Election of their Speaker; being presented to the King, he may allow or disallow of him. Sir *Rich. Walgrave* Knight, being chosen Speaker, the King upon his Allegiance charged him to take it upon him since he was Chosen by the Commons, which he did, *Elsing. Mod. tenend. Parliament.* fo. 67. 5 *R.* 2. n. 10, 11. 8 *H.* 4. n. 8.

5 *R.* 2. n. 10, 11.
8 *H.* 4. n. 8.

13 *H.* 4. On *Tuesday* the Fifth of *November*, The Commons presented before the King and Lords, *Tho. Chaucer* to be their Speaker; who having no allowance of his Excuse, Pray'd that he might speak under Protestation; it was granted that he should speak as others before had done, so as the King therein have no Novelty, and yet would also injoy his Prerogative, 13 *H.* 4. n. 9. 28 *H.* 6. n. 6.

13 *H.* 4. n. 9.
28 *H.* 6. n. 6.

31 *H.* 6. *Tho. Thorpe* being Speaker of the House of Commons, the Parliament being Prorogued for a Trespass done to the Duke of *York* since the beginning of the Parliament,

ment, an Action was brought againſt him, and Damages of 1000 Marks were given againſt him, and he thereupon Impriſoned in the *Fleet*; The Parliament being reaſſembled, the Queſtion was, whether *Tho. Thorpe* Speaker of the Houſe of Commons ſhould be diſcharged of his Impriſonment; but determined and adjudged by the Peers, that he ſhould according to Law remain in Priſon; Notwithſtanding the Privilege of Parliament, or that the ſaid *Thomas* was Speaker of the Parliament, and Command was given to the Commons to go to the Election of another Speaker, which they did, and Elected Sir *Tho. Charleton* to be their Speaker, and the Commons preſented him to the King; *Humilimè deprecando, quòd Dominus Rex hujuſmodi Electionem vellet acceptare*, the King did accept of him, *Ex Rot. Parl. An.* 31. *H.* 6. n. 26. *Selden's Baronage*, fo. 115. 31 *H.* 6. n. 26. *Selden's Baronage*, fo. 115.

I have not obſerved any Speaker of the Houſe of Commons before 49 *H.* 3. or mention of any till R. 2. time; The firſt charge that I

meet with for the Commons to Chooſe their Speaker, is 2 *H.* 4. & continued ever ſince. *Inſt.* Part 4. *fo.* 2. Sir *Jo. Tipſtafe.*

Plat. I cannot be ſatisfied that the King ought to have any Prerogative in the Choice of the Speaker, for as *Plat. Red.* fo. 120, 121. ſaith, No reaſon can be alleadged that the Protection and wellfare of the People ſhould require that a Prerogative ſhould be in the Prince to Chooſe the Mouth of the Houſe of Commons, where there is no particular Perſon that would not think it againſt his Intereſt; The Office of the Speaker is to put their Deliberations into fitting words, and expreſs all their Requeſts to His Majeſty, it's but reaſon that he ſhould be entirely at their Election and Appointment; for the Speakers for many years paſt have received Inſtructions from the Court, and have broken the Privileges of the Houſe, by revealing their Debates, Adjourning them without a Vote, Committed many other Miſdemeanors, by which there is an ill underſtanding

derſtanding between the King and his Houſe of Commons, to the great Prejudice both of His Majeſtie's Affairs, and of the People.

Brit. The Commons being about 49 *H.* 3. by the King's Grace and his Writ Summoned to Parliament, for the better order and avoiding of Confuſion (which may reaſonably happen amongſt ſo many where all may be Speakers) and for the better management of the Affairs of the Kingdom, the Uſe hath been (as in the *Conge de Eſlier* of a Biſhop) that the King doth Name a diſcreet Learned Man, whom the Commons Elect; when the Commons have Choſen, the King may allow of his excuſe, or diſallow him, as Sir *John Popham* was; but without their Election no Speaker can be appointed for them; becauſe he is their Mouth, and truſted by them; and ſo Neceſſary, as the Houſe of Commons cannot ſit without him; *Inſt.* Part 4. *fo.* 8. but it's very reaſonable that the King ſhould Nominate the Speaker, or however being choſen to allow or diſallow

Inſt. Part 4. fo. 8. 1 *H.* 4. n. 62, 63, 64. 1 *H.* 5. n. 9, 10, 11. 5 *H.* 6. n. 10. 32. *H.* 6. n. 25, 26, 27, 28.

of him; for the Speaker being a Prudent Perſon, he may by his Wiſdom compoſe all heats and differences which may ariſe amongſt the Commons, or between the Lords and Commons (as many times there do upon ſmall Occaſions) and may preſerve a good underſtanding between the King and the Houſe of Commons; if the Speaker hath at any time broken the Privileges of the Houſe, by revealing their Debates, or committing any other Miſdemeanors, the Houſe hath Power to puniſh ſuch if any be, and there are Preſidents enough in ſuch Caſes; if the Speaker hath at any time receiv'd Inſtruction from the Court, if thoſe were in order for the well Management and Adminiſtration of Affairs of the Kingdom, I ſee not what the offence is; upon the Wiſdom of the Speaker the Conduct of the Affairs of the Houſe of Commons doth much depend, and upon them the great Concerns of the Nation; therefore the King (who in the Protection and welfare of his People is ſo much concerned) ought to

be

be well assured of the qualification of the Speaker, neither can His Majesty by Usage and Law of Parliament be any more denied the allowance or disallowance of the Speaker, than they can take from him his Negative Voice; If *Haxey* the Speaker in *Richard* the Second's time had been a Prudent Person, he would never have suffered the House of Commons to have presented such a Bill to the House of Lords, which gave them afterwards so much trouble, and for which *Haxey* himself 20 *R.* 2. was Condemned for a Traitor: *Elsing. Modus tenend. Parl. fo.* 73. I pray consider it the sole Election of the Speaker were in the Commons if there might not be as ill an understanding between the King and his House of Commons, as if the King should keep this ancient Prerogative in him, for if the Speaker be faithful to the Interest of the King, he must be so to the Interest of the People; for they have (or ought to have) but one Interest.

Plat. But hath the King a Negative Voice? If he hath, it's as much as a Power to fruſtrate when he pleaſes all the Endeavours and Labours of his People, and to prevent any good that might accrue to the Kingdom by having the Right to meet in Parliament, *Plat. Red. fo.* 122. If he hath a Negative Voice, it ought to be uſed according to the true and Genuine intent of the Government, that is, for the Preſervation and Intereſt of the People, and not for the diſappointing the Councils of a Parliament, towards reforming Grievances, and making proviſion for future Execution of the Laws, and whenſoever it's apply'd otherwiſe, it's a Violation of Right, and Infringement of the King's Coronation Oath, *Pl. Red. fo.* 123.

Brit. Without doubt the King hath a Negative Voice: The Supream Power is always Arbitrary; for that is Arbitrary which hath no Superior to controul it; but the Negative Voice is an Act of the Supream Power, *ergo*, Arbitrary, whether

whether the King will Paſs a Bill preſented to him, or not.

If the King hath no Negative Voice, then he hath no Affirmative Voice, for *Ejus eſt velle Cujus eſt Nolle*; and then the Two Houſes may make a Law without the King, if His Majeſty will not aſſent to the Bill which they ſhall preſent to him: If the King hath no Negative Voice, then the Peers have none; for *Argumentum a Majori ad Minus valet Negativè*, but it's evident by Practice in all Ages, that the Peers have a Negative Voice, *ergo* the King hath a Negative Voice.

If a Bill ſhould be preſented to the King to ſell, delay, or deny Juſtice to his People, is not the King bound *jure Regio* to deny the Paſſing of this Bill? Certainly he is, 21 *H.* 7. 2. *Doct. ut Stud.* 2 *Dialogue*: And if he ſhould Paſs ſuch a Bill, it's againſt his Royal Office and Oath. 21 *H.* 7. 2. *Dr. & Stud. Dial.* 2. 21.

17 *E.* 3. The Commons Petition

tion the King, That the Chancellor and Treasurer may be Peers of the Realm, and no Stranger appointed thereunto; neither that they may have any other Office: The King answereth, *He will appoint such Officers as best like him*: 17 *E.* 3. n. 33. 35, 36. 48.

17 E. 3. n. 33, 35, 36. 48.

If a Bill should be tendred to the King by the Two Houses as it was to *H.* 8. to take away the Scriptures from the Laity; or a Bill should be presented to His Majesty, as it was to Queen *Mary*, to introduce the Pope's Power, and to Establish the Romish Religion here in *England*; would you deny the King his Negative Voice?

The Commons Petition the King, That the keeping of the Sea might be at the King's Charge; The King answereth, *That it shall be as it hath heretofore been*, 20 *E.* 3. n. 21, 22. 20 *E.* 3. n. 12, 13. 22 *E.* 3. n. 19. 5 *R.* 2. n. 8.

5 R. 2. n. 8. 20 E. 3. n. 21, 22. 20 E. 3. n. 12, 13 22 E. 3. n. 19.

Cives London petunt quòd Alienigenæ Mercatores expellantur à Civitate

tate, quia ditantur ad depauperationem Civium. Resp. intendit Rex, quod Mercatores extranei sunt donei & utiles, Mercatoribus, &c. & non habet Consilium eos expellendi. Rot. Parl. 18 E. 1. n. 55. Inst. Part 2. 741.

Rot. Parl. 18. E. 1. n. 55. Inst. Part 2. fo. 741.

The Citizens of *London* do Petition the King, That Alien Merchants may be expelled from the City, because they are enriched to the impoverishing of the Citizens: The King answers, *That Alien Merchants are fit and Profitable to the Nobles, &c. and he hath no purpose to Expel them.*

If the King hath not Power to deny, but *Ex debito justitiæ* ought to pass all Acts which they shall present unto him; why do the Lords or Commons Petition the King to Pass such an Act? It's not *ex debito*, but of his *special Grace* if he doth pass such Acts as are tendred unto him: you shall hear the King himself speaking, who pronounceth them to be of his *special Grace*, 28 *E.* 1. c. 1. *The King of his*

28 E. 1. c. 1.

his ſpecial Grace for Redreſs of the Grievances of his People, ſuſtained by his Wars, and for the Amendment of their Eſtate, and to the intent that they may be the more ready to do him Service, the more willing to Aſſiſt and Aid him in time of need, Grants, &c.

You ſee that the King terms it of his *ſpecial Grace*, tho for Amendment of their Eſtate; and for thoſe Articles he granted them, he expected in Retribution that his Subjects ſhould be the more willing to Aſſiſt and Aid him in time of need, as all good Subjects are Obliged to do.

18 E. 1. *St. de quo Warranto. Weſt.* 2. c. 10. c. 29.

That Statutes are granted of the *ſpecial Grace* of the King, Conſult *Weſtm.* 2. c. 10. c. 29. 18 *E.* 1. *St. de quo Warranto*, &c.

Inſt. Part 2. fo. 37.

And *Statutum de gratia regia dicitur quando Rex dignatur cedere de jure ſuo Regio pro quiete & Commodo Populi ſui*, Inſt. Part. 2. fo. 37.

A Statute is ſaid to be granted of *ſpecial*

ſpecial Grace, when the King is pleaſed to depart from his Royal Right for the quiet and benefit of his People.

The King is not Obliged to give his Royal Aſſent to any Act till Aid be firſt granted to him, 2 *H.*4. The Commons deſire they may have anſwer of their Petitions before the gift of any Subſidy; To which the King anſwered, *He would confer with the Lords, and do what ſhould be beſt according to their Advice.* And the laſt day of the Parliament he gave this anſwer, *That, that manner of doing had not been ſeen nor uſed in no time of his Progenitors or Predeceſſors; That they ſhould have any anſwer of their Petitions, or knowledge of it before they have ſhewed and finiſhed all their other Buſineſs of Parliament, be it of any Grant, Buſineſs, or otherwiſe*: And therefore the King would not in any ways change the good Cuſtoms and Uſage made and uſed of ancient time.

The

8 *H.* 6. n. 42. *Inſt.* Part 3. fo. 112.

The Commons 8 *H.* 6. Petition the King, That the Juſtices of Peace may have enquiry of all Pyracies: The anſwer of the King was, *That he would be Adviſed.* 8 *H.* 6. n. 42. *Inſt.* Part 3. fo. 112.

2 *H.* 5.

2 *H.* 5. In a Law made, there is this Clauſe, *That it is the King's Regality to grant or deny ſuch of their Petitions as pleaſe himſelf.*

1 *Jac.* c. 1.

1 *Jac.* c. 1. The Two Houſes did acknowledge, That His Majeſty had juſt Cauſe to refuſe to paſs the Bill, becauſe it was ſo Derogatory to his Royal Power, *&c.* Prejudicial to the Church; and Deſtructive to the Juſtice of the Realm. 1 *Car.* c. 7.

In Parliament held in *October* 1566. The Two Houſes of Parliament by Common conſent, Reſolved (as they gave the Queen to underſtand) not to Treat of any thing, until ſhe had declared who ſhould Succeed her in her Crown. She gave them no anſwer, *But they were not to make her Grave before ſhe was Dead.* Bodin. Repub. *fo.* 96.

Bod. Repub. fo. 96.

Plat.

Plat. What do you say to *Mag. Charta*, Ch. 29. *Nulli negabimus nec vendemus justitiam*, &c. We deny or sell Justice to none. *Mag. Ch.* c. 29.

Brit. That Statute doth only extend to Laws in *facto*, not to Laws in *fieri*; The King passes his Acts as I said before, not *ex debito justitiæ*, but *ex gratia speciali*. But I pray how is it an infringement of the King's Coronation Oath, if he refuseth to Pass such Acts as the Two Houses shall present to him?

Plat. The King at his Coronation is Sworn to Defend and Protect *Justas leges & consuetudines quas vulgus elegerit*, the just Laws and Customs which the Vulgar shall Choose: Therefore the King cannot deny any Law which the Lords and Commons shall tender unto him.

Brit. Without doubt the Composers of this Oath never intended the Lords and Commons in this word *Vulgus*, it's a great Disparagement to them, and much below their

their Grandeur and Dignity; the Peers cannot be *Vulgus*, becauſe they are the prime Perſons of the Kingdom; next the Knights of the Shires, are or ought to be notable Knights, or notable Eſquires or Gentlemen born in the Counties, as ſhall be able to be Knights; then the Citizens and Burgeſſes ought to be moſt ſufficient, none of theſe can be *Vulgus*.

Plat. What have the *Vulgus* out of Parliament to do to Chooſe Laws?

Brit. There goeth before *quas Vulgus*, the Antecedent *Conſuetudines*; that is, the Cuſtoms which the Vulgar hath or ſhall Chooſe: Sir, do but obſerve it's the *Vulgus* or Common People only which chooſe Cuſtoms; Common uſage time out of mind creates a Cuſtom; no where can ſo Common an uſage be found as amongſt the *Vulgus*; who are the far greateſt part of every Multitude; if a Cuſtom be Common through the whole Kingdom, it's all one with the Common Law of *England*;

England; which is said to be Common Custom, so that to Protect the Customs which the *Vulgus* choose, is to Swear to Protect the Common Law of *England*. I pray take Notice, that as *Consuetudines* go before *quas Vulgus*, so doth *justas* stand before *Leges & Consuetudines*; So that not all Laws, but only just Laws are intended; therefore where the King by Oath is bound to Protect just Laws, it concerns him that they be just Laws; and not by implicit Faith, or blind Obedience.

41 E. 1. Rot. Chartar. M. 3. Pars 17. *Ad Regia Celsitudinis Potestatem pertinet, & Officium, ut partium suarium Leges & Consuetudines quas justas & utiles censuerit, ratas habeat & observari faciat inconcussas; illas autem quæ regni robur diminuere potius quam augere aut conservare videntur, abolere convenit, aut saltem in melius commutare.*

41 E. 1. Rot. Char. 3. Pars 17.

It belongs to the Royal Office of the King, that those Laws and Customs which he shall think to be just and profitable, that he confirm and

cauſe them to be obſerved inviolably, but thoſe which ſeem rather to diminiſh the ſtrength of the Kingdom, than to encreaſe or conſerve it, it's convenient to aboliſh them, or at the leaſt to change them into better.

It's not ſaid, the Laws and Cuſtoms which the Lords and Commons ſhall think juſt and profitable, but which the King himſelf ſhall think to be juſt and profitable; ſo that the King is the ſole Judge of what Laws or Cuſtoms are juſt and profitable; The King is the Supream Head of the Common-
24 H. 8. c. 12. wealth, 24 H. 8. c. 12. and where ought Judgment to be but in the Head? The King is God's Lieu-
Inſt. Part 2. fo. 631. tenant, *Inſt. Part* 2. *fo.* 631. therefore can Judge nothing but what is juſt.

The Clauſe of the Oath *quas Vulgus elegerit*, doth not mention the aſſenting unto or granting any new Law, but of holding, and protecting and ſtrengthening with all his might, the juſt Laws that are already

ready in being, there were no need of Strength or Might if aſſenting to new Laws were there meant.

15 *E.* 3. The Lords and Commons preſſed the King to paſs a Law Derogatory to his juſt Prerogative, that Parliament being ended, and the Kingdom repreſenting it ſelf again the ſame year it was Enacted:

Whereas as in the laſt Parliament certain Articles expreſly contrary to the Laws of England, *and the Prerogative and Royal Rights were pretended to be Granted by manner of a Statute; The King conſidering how that by the Bond of his Oath he was bound to the defence of ſuch Laws and Prerogatives, becauſe the King never freely conſented to the ſaid Statute: It ſeemed good to the Earls, Barons, and other Wiſe Men, that ſince the ſaid Statute did not of the King's free will proceed, the ſame ſhall be Void.*

It ſeems at this time, the King was not bound to paſs whatſoever the Lords and Commons Voted,

to be for the good of the Kingdom; and his Oath did tie him to seek a Restitution of his Prerogative against such forced Laws; so far was it from tying him to pass all such Laws as the Two Houses should think fit.

Plat. It would put a Period to this Dispute, and give much Satisfaction if I could but read the Oath which the Kings of *England* have taken at their Coronation.

Brit. I shall here set it forth with the Ceremonies used at the taking of it.

Plat. You will much Oblige me, I pray do so.

Brit. I will.

The Sermon being done, the Archbishop goeth to the King, and asks him his willingness to take the Oath usually taken by his Predecessors.

The King ſheweth himſelf willing, ariſeth and goeth to the Altar.

The Archbiſhop adminiſtreth theſe Queſtions, and the King anſwereth them ſeverally.

The Arch-Biſhop.

Sir, Will you grant and keep, and by your Oath Confirm to the People of England, *the Laws and Cuſtoms to them granted by the Kings of* England, *your Lawful and Religious Predeceſſors: And namely, the Laws, Cuſtoms, and Franchiſes granted the Clergy, by the glorious King St.* Edward, *your Predeceſſor, according to the Laws of God, the true Profeſſion of the Goſpel Eſtabliſhed in this Kingdom, and agreeable to the Prerogative of the Kings thereof, and the ancient Cuſtoms of this Realm?*

The Anſwer of the King.

I Grant and Promiſe to keep them.

Bishop.

Sir, Will you keep Peace and Godly Agreements entirely according to your Power, both to God, the Holy Church, the Clergy, and the People?

The Answer of the King.

I will keep it.

Bishop.

Will you (to your Power) cause Law, Justice, and Discretion in Mercy and Truth to be executed in all your Judgments?

The King.

I will.

Bishop.

Will you grant, hold, and keep the Laws and rightful Customs which the Commonalty of this your Kingdom have, and will you defend and uphold them to the Honour of God, so much as in you lyeth?

The

The King.

I Grant and Promiſe ſo to do.

Then the Biſhop reads this Admonition to the King before the People with a loud Voice.

Our Lord and King, we beſeech thee to Pardon, and to Grant, and to Preſerve unto us, and to the Churches committed to our Charge all Canonical Priviledges, and the Law and Juſtice; And that you would Protect and Defend us, as every good King in his Kingdom ought to be Protector and Defender of the Biſhops and of the Churches under their Government.

The King Anſwereth.

With a willing and devout Heart I Promiſe and Grant my Pardon, and that I will Preſerve and Maintain to you, and the Churches committed to your Charge all Canonical Privileges, and due Law and Juſtice; and that I will be your Protector and Defender to my Power, by the Aſſiſtance of God,

as every good King in his Kingdom in Right ought to Protect and Defend the Bishops and Churches under their Government.

Then the King ariseth, and is had to the Communion Table, where he makes a Solemn Oath in Sight of all the People to observe the Premisses, and laying his hand on the Book saith,

The Oath.

THe Things which I before have heard; I shall Perform and Keep; So help me God and the Contents of this Book.

Plat. I am abundantly satisfied that the King hath a Negative Voice by the Constitution of this Government, and there could be no Safety for the People if it were otherwise; therefore I do much wonder why *Plat. Red.* and other Persons which seem to be of good understanding, and pretend much for

for the Happineſs and Proſperity of the Government, ſhould ſo labour to diſpoil the King of his Negative Voice; which is *Salus Populi*, and *Tutamen Regni*.

Brit. They which deſign to Deveſt the King of his Negative Voice, do deſign to Deveſt him of his Crown, and to introduce a new Model of Government, for then they will force what Laws they pleaſe upon him and his People; ſuch is the excellent temper of this Government, that tho the Negative Voice gives the King no Power to do any thing, yet it gives him a Power to hinder others to do any thing to the prejudice of the People; tho it cannot make him a King, yet it can help him to keep others from being Kings: you remember when the People were made to believe that the King had no Negative Voice, what pernicious and fatal Conſequences followed, therefore when the King ſhall depart with his Negative Voice, he gives his Crown to him that can catch it.

Plat.

Plat. Methinks it's ſtrange that Biſhops ſhould be Peers of the Realm, and ſit in Parliament, and ſhare in the Soveraignty; therefore *Plat. Red.* fo. 178. doth tell us, That it is and ever will be a Solæciſm in Government, that the Clergy, meaning the Biſhops, ſhould have any ſhare in the Soveraignty.

Brit. The Parliament conſiſts of three Eſtates; 1. Lords Spiritual. 2. Lords Temporal. 3. And of the Commons: The King is none of the three Eſtates, but *Principium Caput & Finis Parliamenti*: If *Plat. Red.* will have Biſhops which are one State Excluded, the great Council of the Kingdom, the Parliament is Diſſolved, which eſſentially doth conſiſt of the three Eſtates, and then the King and the Lords Temporal agreeing, may exclude the Commons, ſo the King and one State remaining; the King at Pleaſure may diſmiſs the Lords, and then where is your Parliament, the only Conſerver of the Rights and Liberties of the People?

The

The Bishops have ever been of the great Council.

Concilium Commune Cantuariæ habitum 5 Idus Januarii An. Dominicæ Incarnationis 605. *præsentibus Rege, & Augustino Episcopo, Clero etiam & Populo.* Spilman's Concil. Tom. 1. fo. 126. Spelman's Counc. Tom. 1. fo. 126.

Ego Ethelbertus An. 603. *Rex Cantiæ cum consensu venerabilis Archiepiscopi Augustini ac Principium meorum, &c.* Spil. Concil. Tom. 1. fo. 119. Spelm. Counc. Tom. 1. fo. 119.

Mr. *Cambden* in his *Brit. fo.* doth assure us, That in the time of the English *Saxons*; and in the ensuing Age a Parliament was called *Commune Concilium*, which was (saith he) *Præsentia Regis Prælatorum Procerum, collectorum*, &c. Camb. Brit. fo.

21 E. 3. *fo.* 60. There is mention made of a Parliament held under *William* the Conqueror, wherein all the Bishops of the Land, Earls, and Barons made an Ordinance touching the Exemption of the Ab- 21 E. 3. fo. 60.

by

by of *Bury* from the Bishops of *Norwich*. In the 10th year of *William* the First, *Episcopi, Comites & Barones Regni, Regia Potestate ad Universalem Synodum pro Causis audiendis & tractandis convocati*, saith the Book of *Westminster*.

Pat. 6. John. A Writ was directed by King *John* to the Sheriff of *Rutland*, An. 6. of his Reign, *Viz. Rex, &c. Vicecomiti Rutland, &c. Sciatis, Provisum est cum assensu Archiepiscoporum, Comitum, Baronum & omnium fidelium nostrorum Angliæ. Patent. 6 Johannis in Dorso.*

So that Bishops which have been in *England* ever since Christianity was first planted here, have been ever Assembled to the great Council of the Kingdom, and *Plat. Red.* may as well be displeased (if he rationally consider the Constitution of this Government) that *H.* 3. by his Writ should call the Commons to sit in Parliament; as that the Conqueror and King *John* should confer the Dignity of Baronies upon Bishops, and by Writs call them

to

to Parliament; they were called by the grace and favour of the Kings, and by no other Right do they or any of them Sit there; and I cannot understand but the King (being the fountain of Honour) may as well dignifie the Bishops (who generally are Learned Men) to Sit in the House of Peers, as the Burgesses (whereof some few of them may not be so able) to Sit in the House of Commons; the Power of the Bishops is so interwoven with the Government of the Kingdom, that it cannot be taken from them without a great Change and Alteration in it.

The Bishops are great Supporters of the Government in the Church and State of *England*, and have been very anciently entrusted by the Laws of the Kingdom, as it doth appear by the Writ of *Ne admittas*, and by the Writs of Prohibition in the Register, *fo.* 31. 33. *& breve at Evesque* f. n. 6. fo. 37, 38. *Bracton.* fo. 240. 244, 245. *Inst.* Part 1. fo. 135.

Bract. fo. 240. 244, 245. *Regist.* fo. 31. 33. f. n. 6. fo. 37, 38. *Inst.* Part 1. fo. 135.

By

By the Ancient and constant forms of Admissions given to every Parson or Vicar at his first Entrance into the Church, *Viz. Admitto te habilem, accipe Curam tuam & meam.*

During the Vacancy of every Church the Bishop is to see the Cure to be served, the Presentation of the next Incumbent is to be made to him, he is to examine the Abilities of the Clerk, Ordination of Ministers, Consecration of Churches, Assignation of Portions from Parsons to Vicars; These are Acts and many more which are peculiar to the Bishop, and in his default to the Metropolitan.

1. He is called *Ordinarius, quia habet Ordinariam Jurisdictionem in causis Ecclesiasticis*, he is called *Ordinarie*, because he hath ordinary Jurisdiction in Ecclesiastical Causes, *Inst.* Part 1. fo. 344. as in Judging of Apostacy, Heresie, Schism, and whereof the Common Law cannot Judge.

2. Of

2. Of *Matrimony*, *Defamation*, &c. *Coke* lib. 5. fo. 9. *Lib.* 5. fo. 9.

3. *Loyalty of Marriage*, *Voydance of the Church*, &c. 15 *H.* 7. 7 *Coke* lib. 4. fo. 17. *Excommunication*, *Baſtardy*; the tryal thereof is to be by Certificate of the Biſhop, and not any otherwiſe; the Honour and Reverence that the Law gives to the Biſhop being an Eccleſiaſtical Judge, and a Lord of Parliament is ſuch, that none but the King's Courts of Records, and no inferior Court, can write to the Biſhop to require ſuch a Certificate, 2 *E.* 3. *Coron.* 160. 8 *E.* 3. 51. 24 *E.* 3. 33, 44 *E.* 3. 28. *Inſt.* Part 1. fo. 134. 36 *H.* 6. 33 *Brok. tit. q. Impedit.* 109. 11 *H.* 6. 8. 15 *H.* 7. fo. 7. *lib.* 4. fo. 17. 2 *E.* 3. *Coron.* 160. 8 *E.* 3. 51. 24 *E.* 3. 33. 44 *E.* 3. 28. 11 *H.* 6. fo. 8.

Whoſoever recovers in a Writ of Right of Advowſion, *Darrein Preſentment*, or *Quare Impedit*, which are all the Writs which lye at Law for the Recovery of any Advowſion muſt have his Execution, and the fruit thereof, by Writ to the Biſhop; ſo that you ſee the Neceſſity of Biſhops, and they cannot be taken

ken away without the Change and Alteration of the whole frame of Government in the Kingdom.

Therefore the Laws of *England* have not only given them much Honour, but for their Integrity Parliaments have *Cumulativè* confer'd many great Truſts upon them.

Plat. I Pray declare unto me what Honours or Truſts the Parliaments of *England* have confer'd upon Biſhops.

Brit. I ſhall Sir, and I will begin firſt with the Honour which have been confer'd upon them by Parliaments, by the *Stat.* 21 *H.* 8. c. 10. The Biſhops have place in Parliament next to the King's Children, and above all other the Nobility.

21 H. 8. c. 10.

Mag. Ch. c. 1. In *Mag. Charta* which hath been above 35 times Confirmed in Parliament, in the very firſt words they are named before all Temporal Lords, the firſt Article thereof being, *That the Church ſhall be free and*

have all her Rights inviolable; of which Rights one of their most eminent is, their sitting in Parliament, *Vid. Stat.* of *Merton*, 20 *E.* 3. the *Stat.* of *Marlborough*, c. 20. *St.* of *Merton.* 20 *E.* 3. *St.* of *Marl.* c. 20.

If the Bishop be Dead and the seat Void, yet Summons were directed *Custodi Spirituali Archiepiscopo Cantuarensi sede vacante*, &c. *An.* 7 *E.* 3. 7 *E.* 3.

If he be beyond Seas, yet Summons were directed unto him, *An.* 13 *E.* 3. *Richardo Dunelmens. Episcopo.* 13 *E.* 3.

I could present you with many more Honours with which they have been dignified, but I am unwilling to be tedious, and shall shew you in the next place the Trusts which Parliaments have put in the Bishops of this Realm.

Plat. I Pray Sir do, you cannot oblige me more.

Brit. I shall Sir; By the *Stat.* 4 *H.* 4. c. 12. Upon every Appropriation the Vicar is to be en- 4 *H.* 4. c. 12.

dowed conveniently by the Diſcretion of the Ordinary.

2 H. 5. c. 1. By the *St.* 2. *H.* 5. c. 1. They are to have the Viſitation of Hoſpitals within their Dioceſs of the King's Foundation.

Their Temporals ſhall not be ſeized into the King's hands without a true and juſt Cauſe and Judg-
14 E. 3. c. 3. ment thereupon, 14 *E.* 3. c. 3.

31 E. 3. c. 11. 21 H. 8. c. 5. If any dies Inteſtate, Adminiſtration of his Goods is to be granted by the Biſhops, *St.* 31 *E* 3. c. 11. 21 *H.* 8. c. 5.

Probate of Wills muſt be before the Biſhops, 21 *H.* 8. c. 5.

21 H. 8. c. 2. By the *St.* 21 *H.* 8. c. 2. They have Power to grant Diſpenſations, and Licences in certain Caſes.

If there be Cauſe, they have Power of making of Union, and
37 H. 8. c. 21. Conſolidation of Churches, 37 *H.* 8. c. 21.

They

They are entrusted to take Subscription and Conformity to the 39 Articles, and to take Submission and Conformity of Recusants and Sectaries, *&c.* 35. *Eliz.* c. 1. & 2. 35 *Eliz.* c. 1. & 2.

They are entrusted to take and require the Oath of Allegiance from Barons, 3 *Jac.* c. 4. 7 *Jac.* c. 6. 3 *Jac.* c. 4. 7 *Jac.* c. 6.

There are many other which I shall not now trouble you with; but by this Prospect which I have given you, you may observe what a great Alteration it would make in the Fabrick of the Government, if Bishops (which are the great Pillars of it) were taken down.

Plat. I am very sensible of the inconveniences which will follow if the Bishops be removed, therefore I am convinced by your excellent Discourse; That no Person can be against Bishops, but he that is against the Government in Church and State: I Pray how did Bishops come to be Barons? *Plat. Red.* fo. 99. saith, That *Bishops did intervene in the State upon the same Foundation*

that the other Peers did, viz. *For their great Poſſeſſions, and the Dependence their Tenants and Vaſſals had upon them.*

Brit. They came to be Barons by the Bounty of the Kings of *England*, and Peradventure by reaſon of their great Poſſeſſions, and the Dependence of their Tenants and Vaſſals had upon them.

Plat. Great Poſſeſſions? If you will give Credit to *Plat. Red.* fo.99, 100, 101. he will tell you, *They did not acquire thoſe great Poſſeſſions very juſtly, for good meaning People, were Cheated by them*; who told them perpetually both in publick and private, *That they repreſented God on Earth, being ordained by Authority from him, who was his Vicetoy here; and that which was given to them, was given to God, and he would repay it largely both in this World and in the next*; This Wheedle made our Anceſtors ſo Zealous to theſe Vipers, that they beſtowed upon them the fruitfulleſt and beſt ſituate of their Poſſeſſions; Nay, ſome they perſwaded

ſwaded to take upon them their Callings, Vow Chaſtity, and give all they had to them, and become one of them; Amongſt whom, I believe ſaith *Plat. Red.* they found no more Sanctity, than they left in the World; but this is nothing to another trick they had, which was to inſinuate into the moſt Notorious and Execrable Villanies with which that Age abounded, Men who being Princes, and other great Men (for ſuch were the tools they worked with) had treacherouſly Poiſoned, or otherwiſe Murther'd their neareſt Relations, Fathers, Brothers, Wives to Reign or injoy their Eſtates; theſe they did perſwade into a belief, that if they had a deſire to be ſaved, notwithſtanding their Execrable Villanies, they need but part with ſome of thoſe great Poſſeſſions (which they had acquired by thoſe Acts) to their Biſhopricks or Monaſteries, and they would Pray for their Souls; and they were ſo acceptable to God, that he would deny them nothing; which they immediately performed, ſo great

was the blindneſs of that Age.

Brit. This is a ſevere Reflection upon the Patrimony of the Church, and peradventure a greater indignity to the Biſhops, than that of the *Nags Head*; A Biſhop is a Lord of great Honour, 14 *H.* 7. fo. 22. They have been here ever ſince there was any Chriſtianity in this Nation, *M. Park. de Antiquitate Eccleſ. Brit. fo.* 66. *Simon Peter* remained in *Britanie* (An. 12. *Neronis*) for a long time, and did Convert many People to the faith of Chriſt, Conſtituted Churches, and Ordained Biſhops, Presbyters, and Deacons, *Ibid.* fo. 7. 8. *Ariſtobulus* (of whom mention is made, *Rom.* 16. 10.) *Britannorum Epiſcopus Ordinatus fuit à St. Paulo*: was Ordained Biſhop of the *Britains* by St. *Paul*, Ibid. *fo.* 9. *Mellitus* was the firſt Biſhop of the Church of St. *Paul* in *London*; which Church *Ethelbert* King of *Kent* did Found, *Ibid.* fo. 66. *Beda* lib. 3. c. 3.

14 H. 7. fo. 22. *M. Parker de Antiquitate Eccleſ. Brit.* fo. 66.

Spilman Conc. Tom. 1. fo. 2, 3, 4, 5.

Beda lib. 3. c. 3.

Lucius the firſt Chriſtian King of the *Britains*, *An.* 169. did Found the

the first Church of *London*; that is to say, the Church of St. *Peter* in *Cornhill*, and made it an Archiepiscopal Seat, and the Metrapolitan Church of this Kingdom, and so it continued for the space of 4 years, until the coming of *Augustin* the first Apostle of *England*; this Archiepiscopal Seat from the said Church of St. *Peter*, was Translated to *Canterbury*, and there it continues to this Dey. *Ibid.* fo. 66. *Faganus* and *Damianus Ao.* from the Incarnation of Christ, 156. by the favour of the King were Two Archbishops at *London* and *York*, *M. Park.* fo. 78. from the most ancient times of King *Lucius* there were four Bishopricks in *Wales*, fo. 88.

Math. Parker. Ibid. fo. 78. *Spil. Conc.* Tom. 1. fo. 11, 12.

All the Bishopricks and Arch-Bishopricks of *England* have been founded by the Kings of *England*, *Rot. Parl.* 18 *H.* 3. *m.* 17. *Inst. Part* 1. fo. 97. and by them endowed.

Rot. Parl. 18. *H.* 3. *m.* 17. *Inst.* Part. 1. fo. 97.

King *Lucius*, *An. Dom.* 189. did begin to endow Churches and Ecclesiastical Men with Lands; *Spil-*

Spilm. Conc. Tom. 1. fo. 33.

man Conc. Tom. 1. fo. 33. And so have received Endowments from succeeding Kings and Princes ever since. I shall give you an instance of the Piety and Bounty of one King, and that was *H.* 8. of his Endowments and Erection of the Bishopricks of *Oxford*, *Peterborough*, *Chester*, *Glouceſter*, and *Briſtol*, the College of *Chriſt-Church* in *Oxford*, and the Deanery of *Weſtminſter*, Deaneries and Prebends of *Canterterbury*, *Wincheſter*, *Worceſter*, *Cheſter*, *Peterborough*, *Oxford*, *Ely*, *Glouceſter*, *Briſtol*, *Carliſle*, *Durham*, *Rocheſter*, and *Norwich*; to give you a full Catalogue of all the Benefactors would require a juſt Volume; therefore it doth ill become *Pl. Red.* to vent ſuch unqualified Language, and ſo foul and unjuſt reproaches againſt the Patrimony of the Church.

And the Biſhops have been in all the great Councils and Parliaments of the Kingdom ſince we have had any, and Voted there as I have before declared unto you; and they enjoy their Poſſeſſions by the Law, and

and by as good Right, as any other Subjects do hold and injoy theirs, and they cannot be taken from them without a great violation of *Mag. Charta Artic. Cleri*, and many other Statutes.

I must beg your Pardon for giving you this trouble, I had not been so tedious if your *Plat. Red.* had not put so much Nut-gall in his Ink; but I hope the Bishops will make him do Pennance for it in a white sheet; Methinks he is like the Gentleman, that when he see he could not catch the Hare, he said, *Hang it, let her go, a Hare is but dry meat.* But why is your Friend's Spleen so distemper'd?

Plat. I know not, except he had Purchased some of the Bishops Lands; and when the King was restored, they were taken away from him; and truly I have known some Sober men so distemper'd in the like case, that they have been beyond the Cure of *Ellabore.*

Brit.

Brit. I should think that your Friend *Pl. Red.* who is so great a Physitian of State, and so dext'rous as to prescribe Cures for the *British Monarchy*, should find some Counterpest against the Malignity of his own Passions.

Plat. I hope he will, yet I can but wonder what sharp and Tartarous Humours have invaded his *Pia Mater*, for he tells you, *fo.* 156. *That the Church of* England *is a Mungrel Church*; and *fo.* 98. *He wishes there never had been any Clergy, the Purity of Christian Religion; as also the good and orderly Government of the World had been much better provided for without them, as it was in the Apostolical time, when we heard nothing of Clergy.*

Brit. Patience good Sir, a *Mongrel Church*? Doth not this reflect upon His Majesty, who by Act of Parliament is declared to be Head of that Church; and doth it suit with the Wisdom of Parliaments to declare him so? What would all our Martyrs if they were alive say, who

who ſealed the Truth of the Doctrine of the Church of *England* with their Bloods?

The Religion of the Church of *England* by Parliament is acknowledged to be a true and ſincere Religion, 1 *Jac.* c. 1. lib. 5. fo. 1. *Cawdrye's Caſ.* and one of the ends of Summoning a Parliament, is *Propter defenſionem Eccleſiæ Anglicanæ*, as it doth appear by the Writ; I Pray take notice that *Penny* for Publiſhing two Scandalous Libels againſt the Church-Government, was Indicted, Arraigned, Attainted, and Executed, *P.* 35 Eliz. *inter Placita Coronæ in B. R.* New Book of Entries, 252.

1 *Jac.* c. 1. *lib.* 5. *fo.* 1. *Cawdrye's Caſe.*

But why hath *Plat. Red.* ſuch a diſpleaſure againſt the Clergy? I am apt to think, becauſe Biſhops were made out of them; he wiſhes there never had been any Clergy, a deſperate and pernitious wiſh; where there is no Clergy there can be no Adminiſtration of the Sacraments; where no Adminiſtration of the Sacraments, no Salvation; doth not your

your Friend then wishing there were no Clergy, wish that all People were damned?

By this wish it seems he is no Friend to the King's Ecclesiastical Power, for if no Clergy, no Ecclesiastical Power; if no Clergy, no Bishops, and so no Government in the Church.

How the good and orderly Government of the World had been much better provided for without them, as it was in the Apostles time, I must profess I know not; was the Government of *Nero* and *Tyberius* such good and orderly Governments? Provided for by whom? it must have been by the Emperors and Civil Magistrates, the Christian Clergy had then no Power, and could make no Provision; But in the Apostolical time we heard nothing of Clergy, neither did we hear then of *Independents*, *Anabaptists*, or *Adamites*: but it seems your Friend is displeased at the word *Clergy*, because all the Orders of the Church in that word *Clergy* are

are comprehended; and he thinks there were no Government or Order in the Church but a Parity; whereas Church Government was appointed by Christ in a manifest *Sub & supra*, his Apostles were above his other Disciples, the 12 above the 70. The 70 were Ministers, the 12 as it were Patriarchs of the Church; noted still by an Article of Eminency (*Οἱ δώδεκα.*) St. *Paul* like a Divine Herald Marshals up all the Ranks of Ecclesiastical Offices, *Cor.* 12. 28. 1. *Apostles.* 2. *Prophets, Teachers,* &c. and I am apt to think that the Order of Episcopacy was founded in Christ himself, who was the great Bishop of our Souls; for he tells you, *As my Father sent me, so I send you.*

Plat. I give you my thanks, I am clear of your Judgment, that the Church Government was founded by Christ in a manifest *Sub* and *supra*; but let us not concern our selves with that: I do tell you that for these 200 years our Government hath been crazy, as *Pl. Red.* saith *fo.* 174. and it stands but upon one

one Leg, and cannot ſubſiſt long, for the Government is broken, becauſe it was founded upon Property, and the Foundation is ſhaken, therefore you muſt either bring Property back to your old Government, and give the King and Lords their Lands again, or elſe you muſt bring the Government to the Property as it now ſtands, *Plat. Red.* fo. 175. the Crown Lands that is the Publick Patrimony, is come to make up the Intereſt of the Commons, while the King muſt have a precarious Revenue out of the Peoples Purchaſes; and be beholding to the Parliament for his Bread in time of Peace; whereas the Kings their Predeceſſors never asked any Aid of their Subjects but in time of War & Invaſion, and this alone is enough to make the King depend upon his People, which is no very good Condition for a Monarchy, *Pl. Red.* fo. 138.

Brit. The Government may be ſomewhat enfeebled, but not broken; Subjection and Obedience to the King and Laws, is that which preſerves

preſerves the Government; and the Government is more or leſs Permanent and Stable, as the People give their Obedience to them:

Alexander asked *Ariſtotle*, How he might moſt ſtrongly fortifie the Walls of a Frontier Town, anſwered, *That the moſt aſſured Walls were, the hearty and good will of his Subjects and Obeyſance to the Laws.*

When our former Kings had all or the greateſt part of the Lands in the Kingdom, and gave them unto their Subjects (not reſerving to themſelves any Proportion of the Lands to thoſe which were alienated) to hold of them by ſuch Services as they were pleaſed to appoint; here the Property was altered, but the Foundation of the Government not ſhaken: If you will look into *France* before *Charles* the 7th's time, you will find that the ancient Demeſns of that Crown did not amount unto above 10000 *l. ſterling per Annum*, which was but a weak Foundation, you will ſay, for

for ſo great a Monarchy; but was ſupported by Gabels and Taxes; look into the Empire, the Emperor *qua* Emperor, hath but 1500 *l. per Annum*, which is paid to him by the *Hans Towns*, but as I take it no Demeſns.

The Union and good Intelligence between King and People is that which makes the Government Happy, and the Monarchy Immortal: It's the Royal Office to Protect the People, and their Duty to give him *Subſidia*, and Aids to do it.

I do not conceive that the ſhifting and changing of Property here in *England*, hath made any Alteration in the Government; but the Diſobedience of Lords, and ſometimes of the Commons, have made it uneaſie to the Prince; the Monarchy of *England* is a Body Politick compacted together by the Laws, which are the Ligaments that tye them together, and the King is the Head of it; while the Inferior Members do their Duties,

ties,& depend upon the Head,there is no danger of any Diſſolution.

I muſt confeſs, the taking away of Tenures (which gave a dependency upon the Crown) and were the greateſt Safety to King and People, was a great blow to Monarchy: But you know at whoſe inſtance it was done; therefore a Royal Support muſt be made for the King to defend his Kingdom and to Protect his People; or elſe I know who in the Concluſion will ſuffer; it's an infelicity to any Prince to have a precarious Revenue out of the Peoples Purſe (as *Plat. Red.* doth rightly obſerve) and to be beholden to a Parliament for his Bread in time of Peace, and for the King to depend upon his People, is no good Condition for a Monarchy.

I Pray good *Platophilus* conſider, if the Diſtempers and Confuſion in Government, whereof your *Pl. Red.* ſpeaks may not have their Creation and Riſe from the diſſenting Brethren (rather than from the ſhifting of Property) ſome of them being for an Optimacy, others for

a Common-wealth, and many of them for Anarchy, but all againſt Monarchy, and theſe Factions drive on their Deſigns with ſo much Fury and Zeal puſhing againſt the Government in Church and State, that you would think they were all begotten under *Aries*: we know by Experience, that every Motion in the Church makes a Commotion in the Common-wealth, and Schiſms in the Church, commonly end with Rebellions in the State: the Church and Common-wealth make but one Body; in ſo much as the ſame Perſons, which *ratione ligeantiæ*, are Members of the Common-wealth, *ratione fidei* are Members of the Church: if you will return and give Obedience to the King and his Laws, the Government will be Immortal; having ſo excellent a *Baſis* as the Monarchy of *England* hath, *Solutio Unionis*, *eſt diſſolutio Entitatis*; your flouriſhes concerning the *Agrarian* Law, and of the fixing of Property; they are but a *Delirium* in Paraphraſe.

Be aſſured Sir, nothing can excuſe you from the leaſt act of Diſ-

obedience

obedience but that Supream Power, *Our Father which art in Heaven*; there is no prevaricating before the Tribunal of his Justice: To God's Omnipotency, there is nothing impossible; to his Omniscience there is nothing invisible; God is the Inspector of all hearts every Minute; and second is overt to him: whereas you pretend Liberty of Conscience, you have it; but I wish you would make a Conscience of your Liberty; where the Law doth Command or forbid any thing you must Obey, the Liberty which is due unto you, is only in those things which are neither Comanded or forbidden.

Plat. I thank you for your good counsel and advice, but I must tell you, That according to the Judgment of *Pl.Red.* you must bring Property back to the old Government, and give the King and Lords their Lands again; or else you must bring the Government to the Property, as it now stands, and so set up a Commonwealth.

Brit. For the Lords to have so great Possessions as they formerly were had, you shall never have my

Vote; for our Ancestors smarted enough under the yoak of their Optimacy; neither can I wish the Government to come unto the People, because Property is, for I dread a Popular Tyrannie.

Therefore I think it would be an Instance of great Duty and Allegiance to His Majesty, and much Honour and Advantage to the Nation, if the ancient Demesns of the Crown (which was a Sacred Patrimony, and by Law unalienable) were by Act of Parliament resumed.

Sir, This is not without Presidents, for in the 11th year of King *Stephen*, by Parliament held at *Winchester* it was Enacted, That the King should resume into his hands all those Inheritances which did belong unto the Crown; or were by him alienated or Usurped in his time.

1 *H.* 2. In the First year of *H.* 2. by Act of Parliament there was a resumption of all those Lands which were alienated from the Crown.

1 *R.* 2. n. 58. 1 *R.* 2. All Gifts made by *E.* 3. of any Hereditaments to be revoked, 1 *R.* 2. n. 58.

6 *H.* 4.

6 *H.* 4. That all such Heredita-
ments, *&c.* as were to the Crown
in 40 *E.* 3. and since by any means
granted to be resumed. 6 *H.* 4. n. 14.
5 *H.* 4. n. 22.

6 *H.* 4. n. 14.
5 *H.* 4. n. 22.

28 *H.* 6. An Act of Resumption
for the King to take into his hands
all Hereditaments, *&c.* and Grants
whatsoever from the 1st day of his
Reign, 28 *H.* 6. n. 53. 29 *H.* 6.
n. 17. The like in *Edward* the
Fourth's time, 4 *E.* 4. n. 39. 7 *E.*
4. n. 8. 13 *E.* 4. n. 6. 1 *H.* 5. c. 3.
10 *R.* 2. c. 1. 31 *H.* 6. c. 7.

28 *H.* 6. n. 53.
29 *H.* 6. n. 17.
4 *E.* 4. n. 39.
7 *E.* 4. n. 8.
13 *E.* 4. n. 6.
1 *H.* 5. c. 3.
10 *R.* 2. c. 1.
31 *H.* 6. c. 7.

Neither is this a Practice pecu-
liar to *England*, but Universal thо-
row the World; All Monarchies
and States having held it for a Prime
and Alphabetical Law; That the
Publick Revenues should be Sacred
and Inalienable; and in many States
the Prince takes an Oath when he
comes to the Crown, in no ways to
Sell or make away the same; upon
which Grounds the Parliaments of
England, *France*, *Poland*, *Swede-
land*, &c. and other Realms have
frequently resumed the Crown

Lands, which have been sold or given away, such Sale and Gifts being void in Law as you may read at large, *Bod. Rep. lib.* 6. *c.* 2. Dr. *Crakenthorp*'s Defence of *Constantine*, fo. 169.

Bod. Rep. lib. 6. c. 2. Dr. *Crakenthorp*'s Defence of *Constantine*, fo. 169.

Tho this Course may seem to be grievous to some few, yet it will be a great benefit to the many; for without this Act of Resumption, the Royal Support must be made up by Taxations upon the People, which will be very uneasie to them.

Plat. It would be very grievous (as you say well) to resume those Lands which have been formerly given or sold by Princes; for it's probable that those Persons which now enjoy them, have them by Purchase, and it would be very ruinous to many Families, & give a great discontent, therefore I think the safer way would be by Taxations, or some other way, as the Wisdom of the Nation shall think fit; for the Government, and the Royal Seignory must be Supported.

Brit.

Brit. The Revenue of the Crown must be proportioned to the Charges, otherwise it can never Subsist: and how much the Charges both at home and abroad do now exceed those which formerly have been, we shall take into a serious Consideration.

In the 14th year of *E.* 3. 40 *s. per Diem* was thought by the King and his Council to be a royal and sufficient Expence for *Edward Balial* King of *Scots*, and his Train, whilst he tarried at *London*, and 6 *s. per diem* when he Travelled. 14 *E.* 3. 46 *E.* 3. *Part.* 2. n. 20. & 30.

By a Remonstrance made in Parliament in or about the 11th year of the Reign of that King, who was King in Possession of *France* as well as of *England*, he did right worshipfully (as the Record saith) maintain the Charge of his Houshold with Sixteen Thousand pounds *sterling per Annum*, which now cannot well be done under Ten times as much: formerly an Annuity or Pension of 10 *l.* or 20 Marks *per Annum*, was then sufficient for the

King's better sort of Servants, but now scarce enough for a Footman, and the most ordinary sort of inferior Servants.

In *H.* 2. time, a Measure of Wheat for Bread for a 100 Men was valued by the King's Officers but at one Shilling, the Carcass of a fat Oxe 1 *s.* of a Sheep 4 *d.* and two pence half-penny for a Goose, 2 *d.* for a Capon, 1 *d* for a Hen, 24 Eggs a penny, and Provender for 20 Horses but 4 *d.* and then thought to be equal for the Buyer as well as the Seller: *In lib. Nigro Scaccarii, Spelman's Gloss. verba firma.*

Spilman's Gloss. Verba firma.

Liber Niger in Scaccar.

Paid by *Thomas* Earl of *Lancaster* in the Reign of *E.* 2. 104 *l.* 17 *s.* and 6 *d.* for 184 Tuns of Claret-Wine, and One Tun of White-Wine, a little exceeding 11 *s. per* Tun. Consider what the like quantity will now come unto.

Paid by the said Earl 147 *l.* 17 *s.* 8 *d.* for 7 Furrs of variable Miniver or Powder'd Ermins, 7 Hoods of Purple, 395 Furrs of Buge for the Liveries

Liveries of Barons, and Knights, and Clerks; 123 Furrs of Lamb for Esquires, bought at *Christmas*, as appears by the Accompt of *Henry Leicester*, the said Earl's Cofferer.

In the 11 *H.* 6. *Ralph* Lord Treasurer of *England*, Prayeth, That the House of Peers would consider of the King's Revenue and Charges; the same Revenue being not able to supply the Charge by 35000 *l.* by the year; That order may be taken for the King's Houshold, He by three long Schedules thereunto annexed, sheweth the Particulars of the whole Revenues and Profits of the Crown, and the Charges of the same by all ways and means; The Lords willed the same to be shown to the Commons. 11 *H.* 6. n. 24.

If the Revenues of the Crown fell so short in *H.* 6. time to Support the Royal Seignory what great Aids and Supports will it require at this time?

Our great Interest no less than our Honour lyes in securing the Domi-

Dominion of the Seas, and by that our Trade: Our Fleet must be answerable to that of our Neighbours, the *French* have 200 Sail of good Ships of War; it seems reasonable for *England* to have 150 Ships of War in constant readiness.

Let us compare but that one Charge of the Admiralty (*ex Uno disce Omnes*) by taking an Estimate of what it was in Queen *Elizabeths* time 30000 *l.* and in the beginning of King *James* 1604. 40000 *l. per Annum*, with what it hath been since the Restauration of His Majesty, which I have been told was offered to be made out in Parliament to have been 500000 *l. per Annum*; but granting it was but 400000 *l.* it must follow, that our Fleet hath been ten times bigger than that of King *James*, or that the Charge is now ten times more; if the Building of 30 Ships require near 600000 *l.* how much more will be wanting to compleat the Fleet to 150 Sail, and to continue Building every year, with an Allowance of one

one Third leſs in Proportion to the *French* King's?

If then the ordinary Occaſions of our Fleet require thus much, and and the extraordinary a vaſt Addition; the common Expences in every particular being above 30 for one more than in *Edward* the Third's time, when the Crown had a large Revenue in Lands; what will all other ordinary and extraordinary Charges of the Crown require now when theſe are almoſt dwindled into nothing?

It's manifeſt that 100 *l.* before the 14th of *E.* 3. time, was equivalent in intrinſick value to 300 *l.* of our now Currant Money; their Groat being raiſed to our Shilling; our Expences are not only far greater, than they were in thoſe days, but our neceſſary uſes require ten times as much as they could then be ſupplied for; therefore it's evident that the preſent Revenue of the State even for neceſſary Occaſions, ought to exceed the Ancient as 30 does one.

It

It will therefore be very well becoming the Wisdom of the Great Council of this Nation to consider and generously to Compute the Publick and Private Expences, and to establish a constant and certain Revenue for the Support of the *British* Monarchy, and the Grandeur and Splendor of its Monarch.

If it shall be thought necessary to apply (by Wisdom of Parliament) the Revenue to every use of the Crown and State, this may remove all Jealousies, and Distrusts, and may beget a good understanding between the King and his People: for if you consult the Histories of all Ages, you will find the Conflicts which have been between the Prerogative on the one hand, and the Liberty on the other, were always founded on the want of Money.

Plat. I well perceive by your Discourse, that the Charges to maintain the Grandeur of the *British* Monarchy must be great, and no

no doubt the Parliament will take these things into their Sober Consideration. But did the Kings of *England* formerly require Aid of their Subjects, but in time of War and Invasion?

Brit. I do conceive, That the Parliaments formerly have given their Kings Aid, when there have been no War or actual Invasion; for admitting the Acts to which the King gives his Royal Assent to be *ex gratia*, *& non ex debito*, as before we have made it evident unto you, then in an humble acknowledgment of His Majestie's Grace they have granted them Royal Aids, and as I take it by the Custom and Law of Parliament they have used to present to His Majesty the Bills of Subsidies and Aid first, and those have passed before the King gives his Royal *fiat* to any other Act.

Plat. Well Sir, let us leave these Aids and *Auxilia* to the Parliament; what do you think to be the immediate Cause of the Distempers of the *British* Monarchy? *Brit.*

Brit. I desire to hear your Judgment.

Plat. You shall Sir, The immediate Cause of our Distemper, is the inexecution of our Laws, when that is alter'd for the better, and that all our Laws are duely executed we are in health, *Pl. Red.* fo. 234, 235, 236. The Cause can be no other than this, That the King is told and does believe that most of those great Charters or Rights of the People are against His Majestie's Interest (tho this be very false) so that the King having the Supream Execution of the Laws in his hands, it cannot be reasonably supposed that he will be willing to execute them whensoever he can choose, whether he will do it or not; it being Natural for every Man not to do any thing against his own Interest, when he can help it; if you consider well what it is that gives the King a liberty to choose whether any part of the Law shall be currant or no, you will find it's the great Power the King injoys in the

the Government; when the Parliament hath discovered this, they will no doubt demand of His Majesty an abatement of his Royal Prerogative in those Matters only which concern our injoyment of our All, that is our Lives, Liberties and Estates, and leave his Royal Power entire, and untouched in all other the branches of it.

Brit. Is the immediate Cause of our Distempers, the inexecution of our Laws? where is the fault? not in His Majesty, who hath often declared himself to make the Law the measure of all his Actions; and at his Coronation is Sworn to cause the execution of the Law: if you will consult the ancient Records you may observe that the Kings of *England* have been very careful to preserve and execute the Laws of the Realm; when the Kings have been Petitioned by Parliament they have answered to the Effect following, Let the ancient Law be held until it please the King by his Council otherwise to advise; or until the King shall be pleased otherwise to

21 *E.* 3. n. 21, 22. 43.
21 *E.* 3. n. 26. 35.
22 *E.* 3. n. 22.

25 E. 3. n. 36, 37. 28 E. 3. n. 19. 21. 35, 36. 50 E. 3. n. 110. 164.

to ordain; or the Laws of the Land shall be observed; or the old Law shall be continued; or the King will be advised for the changing the Law heretofore used.

19 E. 3.

And His now Sacred Majesty will tell you, as his Noble Progenitor *E.* 3. in the 19th year of his Reign publickly declared in a Writ of Error, wherein *Blanch* the Wife of *Tho. Wake* of *Lidal* was Complainant, That he was *Ratione dignitatis in Exhibitione Justitiæ quibuscunq; de regno debitor, & ad statuta Progenitorum facta observanda vinculo juramenti astrictus* 19 E. 3. *Coram Rege*; by reason of his Kingly Dignity a Debtor to every one of his Kingdom, in the doing of Justice, and bound by his Oath to observe the Laws of his Progenitors in the care of himself and his People, whom he is by his Coronation Oath bound to Defend and Protect, and of the *Salus Populi*, *ne quid detrimenti Respublica capiat*, for the Safety of his People, and to the end the Commonwealth may receive no Damage.

But

But why are not the Laws duely executed?

Plat. Red. doth tell you, becauſe the King who hath the Supream Power in his hands, is told and doth believe that moſt of the great Charters or Rights of the People are againſt His Majeſtie's Intereſt, and therefore is not willing to execute them, when he can chooſe. There cannot be a greater reflection upon a Prince, than that he ſhould not execute the Laws when he is Sworn ſo to do.

And what is this but to tell his People that His Majeſty hath broken his Oath made at his Coronation, and thereby to bring him into Contempt with his People, that the Rabbies of the Faction, may ſubvert Monarchy, and upon the Ruines of it, Erect an *Eutopian* Commonwealth? and we know the firſt Charge againſt all Princes, which any Faction hath deſigned to Depoſe, hath been the breach of their Oaths made at their Coronation. 1 *H.* 4. n. 17.

It's true, the Supream Power of

the Execution of the Laws is in the King, but he cannot be in all places to see the Execution of them; hath he not Judges and other Ministers which are Sworn duely to execute the Laws? if any of them be peccant upon just Complaint, and clear Proof, His Majesty will see Justice executed upon them; Neither hath he since his Restauration Protected any from the Law; therefore the Charge of *Pl. Red.* upon His Majesty is very unjust: and if any act of Injustice be done by any of his Counsellors or Judges, it's their act, not His Majesties; they must answer for it, His Majesty can do no wrong: Hath the King then in him a liberty to choose whether any part of the Law shall be Currant or no? I did think he had been *sub vinculo Juramenti*: but whence hath His Majesty liberty? from the great Power he injoyes in the Government; the King hath the Supream Power in him by the Fundamental Government of this Nation, and without that he could not Protect his People: But when the Parliament shall discover this, they

they will no doubt demand of His Majesty an abatement of his Royal Prerogative; in those Matters only which concern our Injoyment of our All; that is, our Lives, Liberties,& Estates; when the Parliament shall discover this; then it seems they have not discovered it yet; This *Plat.* is a very perspicatious Person, and hath an intuitive Soul, and can make an earlier Discovery than the great Representative of the whole Nation, which hath Eyes and Ears in every place: But in case it should be their good Fortune to discover, what then? why without doubt they will demand of His Majesty; it seems by this, your *Plat. Red.* is no Courtier; it had been but Civility and good Breeding to have said, They would Petition His Majesty; Demand doth pre-suppose a Precedent Right, which how it came into the Two Houses of Parliament, I am to learn: but in case they should Demand, I hope His Majesty hath a liberty to deny; But what will they Demand? why an abatement of his Royal Prerogative in those things

which concern our Lives, Liberties, and Estates; this is to devest His Majesty of all his Royal Prerogatives, which are *Jura Regalia*, & *Jura Coronæ*, which by the Laws of the Land and his Oath, he is bound to maintain and preserve; there is nothing but *Plat. Red.* who hath so sagacious a head, may reduce to the Concerns of Life, Liberty, or Estate; but he is very Noble, and His Majesty is much beholden to him, for he will leave his Royal Power entire, and untouched, in all other the Branches of it.

But I pray what are those Powers in the Crown which hinder the Execution of the Laws?

Plat. The Powers now which are in the Crown, and do hinder the Execution of our Laws, and prevent by consequence our Happiness and Settlement are Four. 1. The Absolute Power of making War and Peace, Treaties and Alliances with all Nations in the World. 2. The sole Disposal and ordering of the Militia by Sea and Land

Land, raiſing Forces, Garriſoning and fortifying places, ſetting out Ships of War. 3. That it is in His Majeſtie's Power to Nominate and Appoint as he Pleaſes, and for what time he thinks fit, all the Officers of the Kingdom that are of Truſt and Profit, both Civil, Military, and Eccleſiaſtical. 4. The laying out and imploying as he pleaſes all the Publick Revenues of the Crown or Kingdom, without having any regard (except he thinks fit) to the Neceſſity of the Navy or any other thing that concerns the Safety of the Publick; *Plat. Red.* fo. 237, 238, 239. Therefore for the better Execution of the Law, and to ſettle the Kingdom in Happineſs, he adviſeth that the Parliament Petition His Majeſty by way of Bill, that he will pleaſe to exerciſe thoſe four great *Magnalia* of Government with the Conſent of four ſeveral Councels to be appointed for that end, and not otherwiſe; that is, with the conſent of the major part of them; if any of them diſſent: In all which Councils, His Majeſty, or who he pleaſes to ap-

point shall Preside, the Councils to be named in Parliament, *Pl. Red.* fo. 240, 241.

Brit. Certainly nothing can be more unreasonable than to devest His Majesty of the Exercise of any of these Powers; but to take the Exercise of them all from him, as it's the Design of your *Plato Red.* is to make him a *Ludovicus Nihil*; and *à Testo di Ligno*, as the Duke of *Venice* is called: what are these four Councils but as the *Ephori* in *Lacedæmonia*; the *Tribunes* in *Rome*, or the *Demarches* in *Athens*, to control and check the Power of the King; nay, they may act any thing without him, so they have the Majority of Votes; the King is to have no Negative Voice; if the Councils for the Militia, and the Publick Revenue combine together, they may make whom they please King, and exercise all Oppression and Tyranny over the People, and there is no Remedy against it, but they are all Slaves. How fatal these *Consortes Imperii*, and the Exclusion of His Majesty from the exercise

ercise of those Royal Powers, may be to King and Kingdom we know not; but the act of not dissolving the Parliament granted by His late Majesty, 17 *Car.* 1. we with sorrow do remember.

Semyramis desired of her Husband King *Ninus*, that he would grant unto her the Soveraign Power for five dayes, as *Diadorus Siculus*, or as *Plutarch* Reports, for one day; which being granted her, she in that space caused her Husband to be Slain, and after that Ruled her self as Queen. By this it doth appear, how a King is no more himself, if but for a day he doth depart with the exercise of his Royal Power; it's true the Royal Power doth remain in the King, *in habitu*, and *actu signato*; but if you take away the exercise of that Power; he is only King *de jure*, not *de facto*. I do believe your *Pl. Red.* would not willingly part with his Wife one Night for another Person to have the exercise of her.

21 *R.* 2. Six Lords of Parliament,

ment, and a certain Number of the Houſe of Commons, or three of them, were authorized by Authority of Parliament to Examine, Anſwer, and Determine all the Petitions Exhibited in that Parliament, and the Matters contained in the ſame by their Diſcretion; the High Power of Parliament to be committed to a few, was held to be againſt the Dignity of a Parliament; and that no ſuch Commiſſion or Power could be granted, becauſe it might tend to the Oppreſſion of the People, 21 *R.* 2. n. 74. 1 *H.* 4. n. 26. 71. 2 *R.* 2. c. 3. *Inſt.* Part 4. fo. 42.

21 *R.*2. n. 74. 1 *H.*4.n.26.71. 2 *R.* 2. c. 3. *Inſt.* Part 4. fo. 42.

H. 3. At his Parliament at *Oxford* the 40th year of his Reign, met with ſo many undutiful Demands, that he was neceſſitated to render up to the Rebellious Wills of the Lords the exerciſe of the Royal Power; they muſt have the managing of the State put to the care of 24; whereof 12 by their Election; and the other by him, who in all things elſe was left a Cypher, and in this alſo: He had neither

neither the Election of Publick Officer, nor Private Attendants; his half Brethren and their Followers he must dispoil of all their Fortune, and by Proscription under his own hand, Commanding his Writs, *Pro transportatione fratrum suorum* to be directed to the Earls of *Holland* and *Surry*, and not to pass either their Money, Arms, or Ornaments, *Nisi in forma quam dicti Comites injunxerint*; and after their departure enjoyned the Men of *Bristol*, that they should not permit any Strangers *Sive propinquos regis applicare in portu*, but so to behave themselves therein; that as well the King, *quam Magnates regni sui eos merito debeant commendare.*

Sir *Rob. Cotton* in the Life of *H.* 3.

Clauſ. 49 *H.* 3.

The Castle of *Dover*, and all other Castles and Forts of Reputation in the Realm they furnished with Guardians of their own, Sworn respectively to the State, and taking the like Assurance of all the Sheriffs, Bailiffs, *&c.* and other Publick Ministers; inspecting the Behaviour of many by strict Commission upon Oath to win Opinion in

in ſhew amongſt the Vulgar, whereas their end was truly by diſplacing the faithful Servants of the King to open a way to their own Dependants: By changing the Sole Power into the Rule of many, every one of them began to eſtimate his own worth; and to hammer his Head on every deſign, that might enlarge his Power and Command; and rending aſunder the Regal Juſtice, they made themſelves of ſo many Subjects whilſt they lived in Duty, *Totidem Tyranni*, when they had loſt their Loyalty, *Magnas induxerant Magnates regni ſuper Subditos regis Servitutes & oppreſſiones.*

Rot. Rtg. in Scac. 56 H. 3.

Mountford, *Glouceſter*, and *Diſpencer*, the Heads of the Rebellious Deſign (having drawn into the hands of the 24 Tribunes of the People, the entire Management of the Royal State, and finding that Power too much diſperſed to work the end of their deſires; forces the King to call a Parliament, where they delivered the Authority of the 24 unto themſelves, and created a *Triumvirate* for their own ends, but to

make a ſpeedier way to one of them to become *Dictator Perpetuus*, as it fatally did.

Theſe three Elect nine Councellors, and appoint, *Quod tres ad minus alternatim ſemper in Curia ſint*, to diſpoſe of the Cuſtody of Caſtles, *& de aliis regni negotiis.* *Ordinationes inter Record. in Turri Lond.*

The Chancellor, Chief Juſtice, and Treaſurer with all Offices, *Majores & Minores*, they reſerve the Choice of to themſelves, and bind the King to this hard bargain upon ſuch ſtrong Security, that he is contented under the great Seal, and his Oath to looſe to them the knot of Regal Duty, whenſoever he aſſumeth to himſelf his Regal Dignity, *Liceat omnibus de Regno noſtro contra nos inſurgere, & ad gravamen Noſtrum, opem & Operam dare nobis in Nullo tenentur.*

Here you may ſee the pernicious conſequences to take the Exerciſe of the Regal Power out of the King, and to place it in any other whoſoever. Neither

Neither can the King grant this exercise of Regal Power to any without Violation of his Oath; and therefore *Edward* the First writ in answer to Pope *Gregory*, who demanded of him the 1000 Marks *per Annum* granted by King *John*, *Quod jure-Jurando in Coronatione sua fuit astrictus quod jura regni sui servaret illibata*: 3 *E.* 1. m. 9. in *Sched.*

3 E. 1. m. 9. in Schedul.

All Innovations in Government are Dangerous, for it's like a Watch, of which any one piece lost will disorder the whole. His late Majesty King *Charles* the First, by giving the Parliament 17 *Car.* Power to Sit, and thereby Disabling himself to Dissolve it, we are sensible of the train of Infelicities and Calamities which did attend it; in Eleven years we had Seventeen Models of Government, and after all the Designs and Projections to fix the Government, yet at last it reverted into Monarchy.

Therefore it was well observed by *Polibius* of old, and *Tho. Cam-*

Polib. Hist. lib. 6. p. 521.

Campanella of late, That if Monarchy the best of Governments degenerate into Tyranny, it becomes the worst of any, and soon after ends in an Optimacy; *A Tyrannide in statum Optimatum, & inde in Olygarchiam, atque tandem in Democratiam,* (and when that proves grievous and intollerable) *in fine rursus in statum regium revolvuntur.* *Camp. de Monarch. Hispa. c. 30.*

Sir, I must tell you, There are a Generation of Men (fitter in being Factious to disorder, than Sober to settle Affairs of State) who make it their Master-piece; to Subvert the best Government, and to sully the Wisdom of the greatest Rulers, (making each Casual mishap their Errors) and then to present unto the People some *Eutopia*, or imaginary Model of Government, flattering their own belief and ability, that they can mould any State according to their own Idea, which in particular Application prove idle and gross absurdities; as I conceive the Theorems and Maxims of your *Plat. Red.* will,

will, if they were put in Execution; assure your self Sir, so long as the Helm of the Monarchy of *England* is guided by wise Men as it is, and His Majesty makes the Law the measure of his Actions (as he hath often declared himself to do) there can be no Danger; every man may safely sit under his own Vine, and his own Fig-tree, and injoy with Pleasure the fruits of his Labour: No People in the world are so free if we could be content with a good and merciful Prince, just Laws, and right Reason.

Plat. Sir, I thank you for this your generous freedom: But is the Power of making War or Peace solely in the King? for *Plat. Red.* fo. 104, 105. saith, *That the Power of making of War and Peace hath been usually exercised by the Prince, if he can do it with his own Money*; yet because even in that Case it may be ruinous to the Kingdom by exposing it to an Invasion, many have affirmed, That such a Power cannot be by the true and ancient free Government of *England*, supposed

poſed to be entruſted in the hands of one Man; and therefore he ſaith, *That in divers Kings Reigns, the Parliament hath been conſulted, and their Advice taken in thoſe Matters that have either concerned War or Leagues; and that if it hath been Omitted, Addreſſes have been made to the King by Parliaments, either to make War or Peace, according to what they thought profitable for the Publick.*

Brit. Jus Gladii, the ſole Power of making War and Peace by the Fundamental Conſtitution of this Monarchy is ſettled in the Crown, or rather the Crown ſettled on it.

The *Poſſe Regni* is ſuch an individual Right of the Crown, as a King without it is in truth nothing; he is but *Magni nominis umbra: Oportet* (ſaith *Glanvil*) *regiam Poteſtatem armis eſſe decoratam. In Rege* (ſaith *Bracton*) *qui rectè regit, neceſſaria ſunt hæc duo Arma & Leges*: The King is bound to Protect and Defend his People; but if he hath not the *jus Gladii* how can he do it?

by

Stat. 7 *E.* 1. by the *Stat.* 7 *E.* 1. It's declared by the Prelates, Earls, Barons, and Commonalty of the Realm, That it belongs to the King and his Royal Seignory ſtreightly to Defend force of Armour, and all other Force againſt the King's Peace at all times when it ſhall pleaſe him to Puniſh them that ſhall do contrary to the Laws and Uſage of the Realm, and hereunto they are bound to Aid their Soveraign Lord, at all Seaſons when need ſhall be, *Old Mag. Chart.* fo. 156.

Bodin de Rep. fo. 165. lib. 7. fo. 25. *Calvin's* Caſ. The Reſolution of War or Peace, depend ſolely upon the Soveraign Prince: *Bodin de Repub.* fo. 165. lib. 7. fo. 25. *Calvin's* Caſe.

19 *E.* 4. fo. 6. The People without the King cannot make a War; but the King without the People can, 19 *E.* 4. fo. 6.

None can make War within this Realm without Authority from the King; for to him only it doth belong by the Common Law of the Land, to do other-

otherwiſe is High Treaſon: *Inſt.* Part 3. fo. 9. *Glanvil.* lib. 1. c. 2. *Bracton* lib. 3. fo. 118. *Britton* fo. 16. *Fleto.* lib. 1. c. 21.

Inſt. Part. 3. fo. 9. *Glanvil.* lib. 1. c. 2. *Bract.* lib. 3. fo. 118. *Brit.* fo. 16. *Flet.* lib. 1. c. 21. *Min.* c. 5.

Debent univerſi homines liberi, &c. Secundum feodum ſuam arma ſua habere, & illa ſemper prompta conſervare ad Tuitionem Regni & ſervitiorum Dominorum ſuorum juxta præceptum domini Regis explendum & peragendum, Lamb. fo. 135. *Inſt.* Part 1. fo. 75. 6.

Lamb. fo. 135. *Inſt.* Part 1. fo. 75. 1.

The King is Conſervator of the Law, 8 *H.* 7. fo. 1. but if he hath not *jus Gladii*, how can he conſerve them.

8 *H.* 7. fo. 1.

Salutem Reipublicæ tueri Nulli magis convenit quàm Cæſari: Gail *de Pace Publica*, lib. 1. fo. 2. n. 1.

Gail de Pace Pub. lib. 1. fo. 2. n. 1.

If there ſhould be an Invaſion *ab extra*, or an Inſurrection *ad intra*, if the *jus Gladii* were not in the King; who ſhould defend the Kingdom (for *Gladius ſignificat defenſionem Regni & Patriæ*) the Parliament is not in being; if it be in

the People; then all have an equal Right to Command; and so for want of a good accord amongst them, the Kingdom will be Conquered or Invaded; therefore the *jus Gladii* is and must be solely in the King, and his Subjects are Obliged, and must attend and obey his Commands, and for their so doing they are indemnified; for none who shall attend upon the King, and do him true Service, shall be attainted or forfeit any thing, 11 *H.* 7. c. 1.

11. H. 7. c. 1.

St. de Militibus. 1 *E.* 2, *Inst.* Part 2. fo. 597.

None above the Age of 60 years shall be compelled *ad arma Militaria suscipienda*, or be in Service as a Soldier, *Vid. Stat. de Militibus*, 1 *E.* 2. *Inst.* Part 2. fo. 597. *Ergo* all Persons under the Age of 60 in case of Necessity, ought to serve as a Soldier for the Defence of the King and Kingdom.

The King of the *Romans* was alwayes Created in *Campo Martio*, thereby denoting that every King ought to be well instructed in Martial Discipline, and know in time

time of Danger how to Lead and Command his People.

We have manifested to you before, that the Supream Power is radically and fundamentally in the Kings of this Nation; *ergo* the *jus Gladii* must necessarily be in them; being part of the Supream Power.

Non liceat torneare, bordeare, justas facere accenturas, gurrare sive ad arma præsumere sine licentia Regis P. 29 E. 1. *Coram Rege Rot.* 101. *Essex.* 11 H. 7. fo. 23. P. 18 E. 1. *Coram Rege Rot.* 32. *Glanc. Britton* fo. 29. 6. *Inst.* Part 3. fo. 160.

Inst. Part 3. fo. 160. 11 H. 7. fo. 23. P. 29. E. 1. *Coram Rtg. Rot.* 101. 18 E. 1. *Coram Rege Rot.* 32. *Brit.* fo. 29.

Therefore those which are Earls and Barons, have Offices and Duties annexed to their Dignities of great Trust and Confidence for two Purposes. 1. *Ad consulendum tempore Pacis*, to Counsel the King in time of Peace. 2. *Ad defendendum Regem & Patriam tempore belli*; To defend the King and Countrey in time of War. *Inst.* Part 2. fo. 5.

Inst. part 2. fo. 5.

If the King makes a War against

any King or State, and any of his Soldiers ſhall move Contention, Sedition or Diſcord in his Army without Cauſe, or ſhall withdraw himſelf from the Hoſt of the King, or from his Aid, leaving him amongſt his Enemies in Danger, it's Treaſon, as it was adjudged in Parliament in the Caſe of *Nicholas de Segrave*, *Plac. in Parl.* 33. *E.* 1. *Rot.* 17. *&* 22. *Inſt.* Part 3. fo. 7. for it was *Contra ligeantiam ſuam debitam*, *Dy.* fo. 145.

Plat. in Parl. 33 E. 1. *Rot.* 17. & 22. *Nicholas de Segraves Caſ. Inſt.* Part 3. fo. 7. *Dy.* 145.

Plat. If in divers Kings Reigns, as *Plat. Red.* ſaith, the Parliament hath been conſulted, and their Advice taken in thoſe Matters that have either concerned War or Leagues; it's a great Argument to me, that the ſole Power of making War or Peace is not in the King.

Brit. The Kings of *England* have adviſed with their Parliaments about War or Peace; not but that they could have made War or Peace without them, but in Complement, and to have Aid from them to maintain

tain their War; for *interveniente populi voluntate & assensu crescit Robur, & Potentia Regum, & major est ipsorum authoritas, & felicior progressus*, as *Philip. Comin.* saith, *lib.* 5. fo. 233. 7 *R.* 2. n. 4. *Philip. comin. lib.* 5. fo. 233.

When the Kings of *England* have consulted the House of Commons about a War or Peace, they have from time to time expressed their Disabilities, and unwillingness to advise the Kings therein, but have refer'd themselves to the King and Lords.

The 6 *R.* 2. The Parliament was called to Consult whether the King should go in Person to rescue *Gaunt*, or send an Army? The Commons after two days Debate, crave a Conference with the Lords, and Sir *Tho. Puckering* (their Speaker) Protest, That Councils for War did properly belong to the King and his Lords, yet since the Commons were Commanded to give their Advice, they humbly advised a Voyage by the King, 6 *R.* 2. n. 15. 6 *R.* 2. n. 15.

7 R. 2. The Commons are willed to advise upon view of Articles of Peace with the *French*; whether War or such Amity should be accepted? They modestly excuse themselves as too weak to Counsel in such weighty Cases; but Charg'd again as they tendred their Honour, and the Right of the King, they make their answer; and gave their Opinion rather for Peace than War,

7 R. 2. n. 16. 7 *R.* 2. n. 16.

13 *E.* 3. The Lords and Commons were called to consult how the Domestick quiet might be preserved, the Marches of *Scotland* defended, and the Sea secured from Enemies. The Peers and Commons having apart Consulted, the Commons desired not to be charg'd to Counsel of things of which they had no Cognizance, *De quex its n'ont pas Cognisance.* 21 *E.* 3. Justice *Thorpe* declaring to the Peers and Commons, That the *French* War began by their Advice, the Truce after by their Assent accepted and now ended; the King's Pleasure was to have their Counsel

sel in the Prosecution, the Commons being Commanded to Assemble themselves, and when they were agreed to give notice to the King and the Lords of the Council, after four dayes Consultation, they humbly desired of the King that he would therein be advised by the Lords, and others of more Experience than themselves in such Affairs, 21 *E.* 3. n. 5. 21 *E.* 3. n. 5.

At the Parliament 28 *E.* 3. Sir *Bartholomew Burgherst*, the King's Chamberlain declares to the Commons in Parliament, that there was a Treaty of Peace betwixt the King and the *French*, and that there was a good hope of a final Concord, therefore he Demands of the Commons whether they would agree; all of them wholly therein submitted themselves to the Order of the King and his Nobles, 28 *E.* 3. n. 59. 28 *E.* 3. n. 59.

And this the House of Commons have done often in many Ages, as it doth appear by the Subsequent Records, which they would never

15 *E.* 3. n. 17. 38 *E.* 3. n. 58. 47 *E.* 3. n. 5. 50 *E.* 3. n. 9. 17, 18, 19, 20, 21. 51 *E.* 3. n. 11. 1 *R.* 2. n. 12. 2 *R.* 2. n. 23. 5 *R.* 2. n. 14, 15. 28 *H.* 6. n. 53. 33 *H.* 6. n. 47.

have done, if they had any Privilege, Right, or Power in the making of War or Peace, otherwise than the granting of Aid and Subsidies to support and carry on the War, 15 *E.* 3. n. 17. 38 *E.* 3. n. 58. 47 *E.* 3. n. 5. 50 *E.* 3. n. 9. 17, 18, 19, 20, 21. 51 *E.* 3. n. 11. 1 *R.* 2. n. 12. 2 *R.* 2. n. 23. 5 *R.* 2. n. 14, 15. 28 *H.* 6. n. 53. 33 *H.* 6. n. 47.

Plat. But why doth the Honorable House of Commons submit themselves to the Order of the King and his Nobles.

Brit. Not that the Nobles are Sharers in the Power of making War or Peace; but the Power is solely in the King; but the Nobles are the King's great Council, and best able to advise him; yet without the House of Commons, if he hath no Money of his own he can make no War; for all Aid originally comes from them.

Plat. But hath the King an Absolute Power to make Treaties and Alliances, by which means, as

Plat.

Plat. Red. fo. 237, 238. ſaith, by Ignorant Counſellors or wicked Miniſters of our former Kings have Confederations and Wars been made very contrary and deſtructive to the Intereſt of *England*; and by the unfortunate Management of them, have often put the Kingdom in great hazard of Invaſion: and becauſe thoſe wicked Counſellors (who may think they can be ſafe no other way) will make Alliance with Powerful Princes, in which there may be a ſecret Article by which thoſe Princes ſhall be obliged to aſſiſt them, with forces upon a ſhort warning to Curb the Parliament, and poſſibly to Change the Government, as *Oliver Cromwel* (the great Pattern of ſome of our Courtiers) did inſert an Article in his Treaty with Cardinal *Mazarine*, That he ſhould be aſſiſted with 10000 Men from *France* upon Occaſion to preſerve himſelf in his Uſurped Government againſt His Majeſty, or in fine, his own Army, whoſe Revolt he often fear'd.

Brit. This Power of the King of making Leagues and Alliances, was never queſtioned ſince there was a Monarch in *England*; and this Power muſt be in the King; for Parliaments are not alwayes in being; and upon every League that the King makes with any Prince, if he ſhould call a Parliament, it would be a great inconvenience to the People, and a Diminution of the Majeſty of *Great Britain.*

I remember I have met with a Story reported by King *James* of *England*, That there was a King to Marry his Son to a conſiderable Fortune, but the other Prince would have all the Articles of Agreement between them to be Confirmed by Act of Parliament; The King the better to advance the Match, did condeſcend unto it; a Parliament was called to that purpoſe, and the Articles were Confirmed. When other Princes heard of this Paſſage, the King did ſo much for ever after loſe his Honour, that none would have to do with

with him in any thing of Moment, but would have it Confirmed by Act of Parliament.

Plat. I Pray make it evident unto me that this Power is ſolely in the King.

Brit. I ſhall, 19 *E.* 4. 6. The King alone without the People may make a War or League. 19 *E.* 4. 46. *Fitz Juriſdict. Plat. ultimo.* If all the People of *England* ſhould break the League made with a Foreign Prince without the King's conſent, the League holds, and is not broken.

19 *E.* 4. 6.

Fitz Abridg. Tit. Juriſdict. Plauto ultimo.

2 *H.* 5. c. 6. The King alone may make a War or League without the People.

2 *H.* 5. c. 6.

It's true there are ſome few Preſidents that Leagues and Alliances have been Confirmed in Parliament; but you muſt underſtand, that they were not Leagues or Alliances becauſe they were Confirmed, but they were Confirmed becauſe they were Leagues and Alliances.

4 H. 5. n. 14. 4 *H.* 5. A League and Alliance between the King, his Heirs, and Succeſſors Kings of *England*, and *Sigiſmond* King of the *Romans*, his Heirs and Succeſſors Kings of the *Romans*, was Confirmed by whole aſſent of Parliament, 4 *H.* 5. n. 14. This was done upon a grand Concern of State, that the Kings of *England* might the better ſecure their Intereſt in *France* by the Alliance of ſo great and Potent a Prince.

If the Supream Power be in the Kings of *England*, as before is declared, then without doubt it will neceſſarily follow that the right of making Alliances or Leagues is ſolely in them; for to make a League or Contract an Alliance, is but the exerciſe of the Supream Power.

Plat. Methinks it's a ſtrange Prerogative that the King enjoys, that he ſhould have the ſole diſpoſal and ordering of the Militia by Sea and Land, raiſing Forces, Garriſoning and Fortifying Places, ſetting out Ships of War, ſo far as he can do all

all this without putting Taxations upon the People, and this not only in the Intervals of Parliament, but even during their Seſſions; ſo that they cannot raiſe the Trained Bands of the Countrey or City to guard themſelves, or ſecure the Peace of the Kingdom; as it's admirably obſerved by *Plat. Red.* fo. 239.

Brit. The Supream Power by the Conſtitution of the Government being in the King, he muſt neceſſarily have the ſole diſpoſal and ordering of the Militia by Sea and Land.

Plat. Declare to me how he hath the ordering of the Militia by Sea?

Brit. That he hath the ſole ordering of the Militia by Sea; I ſhall make it clear and evident unto you by Preſidents in all Ages.

Plat. I Pray do ſo.

I ſhall Sir; 15th of King *John*, a Com-

Commiſſion iſſued out to *John de Marſhal* to guard the Seas, and to the Sheriff of the County of *Lincoln* to attend his Commands, 15th of King *John* M. 4.

15 King *John* *M.* 4.

Writs to the Barons of the Cinque-Ports; and divers other Towns to have their Ships ready for the King's Service, 15th of King *John*, M. 6.

4 *H.* 3. A Writ to the Men of *Eſſex*, *Norfolk*, and *Suffolk*, appointed to attend for the guarding of the Sea Coaſts, *T. de M. Cuſtodem Maris & Partium Maritimarum* within their Counties, Commanding them to aſſiſt him, and to perform therein what he required, 4 *H.* 3. *M.* 7.

4 *H.* 3. *M.* 7.

24 *E.* 1. Writs directed to the Sheriffs of *Lincoln*, *York*, and *Northumberland*; reciting that he had commanded *A. de B. ad Congregandum & Capiendum centum Naves*, between *Ley* and *Barwick & ad homines Potentes in eiſdem Navibus Ponend.* Commanding them to

24 *E.* 1. *M.* 17.

to assist him there. 24 *E.* 1. *M.* 17.

24 *E.* 1. A Writ was directed to the Bailiffs of *Great Yarmouth*, reciting that the King was informed, That certain of *Flanders*, and *French* in a great Multitude apparelled like Fishermen, intending to invade their Town, warning them to gather their Ships together, and all their Arms to defend themselves against such Attempt. 24 *E.* 1. *Rot.* 81. 24 *E.* 1. *Rot.* 81.

25 *E.* 1. A Writ was directed to the Sheriff of *Lancaster*, reciting that whereas the King had formerly Commanded him, to go to all the Ports and Towns where Ships were, Command the Bailiff of the Ports to have all the Ships of Burthen of 400 Tuns at *Winchester* by such a day, and commandeth the Sheriff to see them made ready and sent, 25 *E.* 1. *m.* 12. the like *Pat.* 9. *E.* 2. *Part* 2. *Clauſ.* 20. *E.* 2. *m.* 8. *Scot.* 10 *E.* 3. *m.* 2. *Scot.* 16. *m.* 22. *Alm.* 12. *E.* 3. *m.* 12. *Franc.* 25 *E.* 3. *m.* 20. 25 *E.* 1 *m.* 12. 9 *E.* 2. *Part* 2. *Clauſ.* 20 *E.* 2. *m.* 8. *Scot.* 10. *E.* 3. *m.* 2. *Scot.* 16. *m.* 22. *Alm.* 12. *E.* 3. *m.* 12. *Franc.* 25 *E.* 3. *m.* 20.

If

If the King had not this Power of disposal and ordering the Militia; how could he repel or hinder a Foreign Invasion, or secure the Peace of the Kingdom from Attempts abroad.

And as the King hath the sole ordering and disposal of the Militia by Sea; as it doth appear by the Records aboveſaid; so he hath the ordering and arraying of Men at Land for the Realm.

20 E. 3. m. 14. 20 *E.* 3. a Commission to *Nicholas De Cartlape*, to Array Men to resist the *Scots*, 20 *E.* 3. m. 14.

25 E. 3. m. 20. 20 *E.* 3. a Writ to the Maior of *York* to Array all their Men, to be ready when they shall be required, 20 *E.* 3. *m.* 14, 15.

26 E. 3. m. 5. 25 *E.* 3. a Commission to *John de Bodingham* to Array all the Men to be ready when they shall be required, *Franc.* 25 *E.* 3. m. 20. The like to the Earl of *Huntington*, *Franc.* 26 *E.* 3. m. 5. The like to the Archbishop of *Canterbury* to Array

Array all his Clergy in his Dioceſs, &c. to be ready to go with the King's Forces to defend the Kingdom; The like Writs to all the Biſhops in the Kingdom, *Franc.* 46 *E.* 3. m. 34. *Franc.* 50 *E.* 3. m. 47. *Scot.* 7 *R.* 2. m. 8. The like, *Clauſ.* 1 *H.* 4. m. 12.

46 *E.* 3. m. 34. 50 *E.* 3. m. 47. 7 *R.* 2. m. 8. *Clauſ.* 1 *H.* 4. m. 12.

21 *R.* 2. A Commiſſion to the Duke of *Albemarle* to Array Men in the Weſt Marches towards *Scotland* to reſiſt the *Scots*, *Scot.* 21 *R.* 2. m. 3. *Rot. Vurg.* 1 *H.* 4. m. 11, 12.

3 *H.* 5. A Commiſſion to Array all Men at Arms in the Weſt Riding in *Yorkſhire* to be ready to defend thoſe parts. *Pat.* 3 *H.* 5. *Pars* 2. m. 37. The like to others in 19 ſeveral Counties, *Pat.* 13 *H.* 6. m. 10.

21 *R.* 2. m. 3. 1 *H.* 4. m. 11, 12. 35 *H.* 6. *Pars* 2. m. 37. 13 *H.* 6. m. 10.

39 *H.* 6. Commiſſions iſſued out for Arraying Men for Defence of the Kingdom, if Invaſion ſhall be, and for Repreſſing of Rebels. *Pat.* 39 *H.* 6. n. 12. m. 1. 1 *H.* 7. *Pars* 3. 4 *H.* 8. *Pars* 2.

39 *H.* 6. n. 12. m. 1. 1 *H.* 7. *Pars* 3. 4 *H.* 8. *Pars* 2.

So that it's Evident that the *Posse Regni*, or the Power over the Militia to Muster, Array, &c. is by the Fundamental Constitution of this Nation immovably settled in the Crown.

The King hath not only Power to Muster and Array Men, but he may remove at his Pleasure any Person which hath by Letters Patents the Custody of any Castle, Bulwark, or Fortress, 2 *Et* 3 *E.* 6. c. 16.

2 & 3 E. 6. c. 16.

If any Person shall detain from the King any of his Ships or Munition of War, it's High Treason, 26 *H.* 8. c. 13. 5 & 6 *E.* 6. c. 11.

26 H. 8. c. 13. 5 & 6 E. 6. c. 11.

The taking of the King's Castles Forts or Ports is Treason, *Brook lib. Treason. Pl.* 24. 3 & 4 *Philip & Mar.* By all the Judges of *England*, 10 *Eliz. Plowd.* fo. 316. *Dy. Stafford's* Case concerning *Scarborough.*

Brook Abridg. lib. Treason. pl. 24 *Plowd. Com.* fo. 316.

If the Captain of a Castle, only thorough Fear and Cowardize, and not

not from any Compliance with the Enemy, Surrender it; This is Treason as it was adjudged in the Case of the Lord *Gray*, for Surrendring of *Barwick* Castle to the *Scots*, in *E.* 3 time, tho good Defence was made by him, and tho he lost his Eldest Son in the Defence of it at the Siege.

William of *Weston* 4 *R.* 2. was Condemned by the Lords in Parliament to be beheaded, because he Surrendred the Castle of *Barwick* to the *Scots*, without any Dures or default of Victuals against his Allegiance, *fo.* 26.

Stld. de Baronage. fo. 26. 4 *R.* 2.

John Lord *de Gomeniz* 4 *R.* 2. was likewise Condemned by the Lords in Parliament to be Beheaded because he did Surrender the Town, and of *Ardie* to the Enemies of the King without Dures or Default of Victuals or Artillery, or any other cause Necessary to the Defence of the Castle, *&c.* without the Command of the King.

Stld. de Baron. fo. 28.

Therefore the *Posse Regni* being by the Constitution of the Government in the King, it cannot be taken from him or exercised by any other, without the hazarding the Dissolution of the Government.

If these Councils should be established (the exercise of all Soveraign Power being in them) they may by Practice make themselves Masters of the Strength and Power of the Kingdom; that done, possibly they may proceed to Subvert the Government in Church and State; and then what will lett but that they may Reign as Arbitrary Lords, and Lordly Tyrants? Then the People would wish that the Regal Power had been preserved in the King; tho he should have proved a Tyrant, for so there might have been an end of their Miseries. Many Tyrants have again turned to be good Kings; or if that hope should delude their Expectations, yet his death would e're long make place for a Successor, who probably may prove a milder Lord, but Tyranizing Councils will be an Immortal Slavery. *Plat*

Plat. But is it not a great Soleciſm in Government, that it ſhould be in His Majeſtie's Power to Nominate and Appoint as he pleaſes, and for what time he thinks fit all the Officers of the Kingdom that are of Truſt or Profit, both Civil, Military, and Eccleſiaſtical (as they will be called?) this Power may furniſh a Prince who will hearken to ill-deſigning Counſellors, with the means either of invading the Government by Force, or by his Judges and other Creatures undermining it by fraud, *Plat. Red.* fo. 239.

Brit. Certainly nothing can be more ſuitable to the Grandeur of Majeſty, than to have the Nomination and Appointment of all the Officers of the Kingdom; if it were otherwiſe, ſuch Officers may be put upon him as would render Government the greateſt Affliction in the World to the Prince: *Omnium domos illius vigilia defendit, omnium otium illius labor; omnium delicias illius induſtria, Omnium vacationem illius Occupatio*; for which the Law doth attribute unto him, *Sanf. Præf.*

all Honour, Dignity, and Preheminence.

The Cares of Kings and Princes are great; therefore it's but just they should have the Choice of their own Servants and Officers, which may ease them, and give them some quiet and rest; for *Nihil aliud est Imperium nisi cura salutis alienæ.*

It's a great Presumption in your *Plat. Red.* and a diffidence the People have of their King; and that he will not Govern as by his Oath he is obliged, when they would put such unreasonable terms upon him: The King is *Pater Patriæ*, would it not be a very undutiful act in Children to set what Servants they please over their Father to govern the Family? much more unreasonable and undutiful it is in Subjects to demand the Nomination and Appointment of the Officers and Servants of their Prince.

Domestical Government is the very Image and Model of Soveraignty

ty in a Commonwealth; therefore it was well said by *Ageſilaus*, when he returned this anſwer to a Citizen of *Sparta*, that deſired an alteration of the Government, *That kind of Rule which a Man would diſdain in his own Houſe, were very unfit to govern great Regions by.*

If the King had been of tender years, *&c.* The Propoſal might have had ſome ſhew of reaſon, but when the King is a Prince of great Judgment, very induſtrious to manage all Affairs of State for the benefit of his People, and have as good and wiſe Officers as any Prince have had; it can deſign nothing but the Subverſion of the Government, and to render the Prince inconſiderable, if not contemptible.

Sometimes theſe Propoſitions have been moved in Parliament, not ſo much for Publick Advantage as for Private ends, to get themſelves into thoſe Offices and Places of Honour and Profit.

But the Kings have always rejected such unreasonable Addresses made to them; for it's no Prudence in a Prince to put himself in Wardship to his own Servants.

50 *E.* 3. The Commons Petition that Justices of Peace may be named by the Lords and Knights of every Shire in Parliament, where they may be sworn; and none to be renewed without Parliament; and that they may be allowed reasonable Fees, the King answers, That they shall be named by the King and his continual Council (that is his Privy Council) and for the Fees the King will be advised, 50 *E.* 3. n. 59.

50 *E.* 3. n. 59.

1 *R.* 2. The Commons in Parliament Petition the King considering his tender Age, That it will please him to Name in Parliament 17 sufficient Persons of all Estates, to be continually Resident about the Affairs of the King and Realm, with other of the King's Officers, so they may be ascertained of their Names: to which the King assenteth;

eth; ſo as the Chancellor, Treaſurer, Keeper of the Privy Seal, Juſtices of the one Bench and other, may execute their Office without the Aſſent of ſuch Councellors, 1 *R.* 2. n. 23. 1 *R.* 2. n. 23.

2 *R.* 2. The Commons Petition That the King's Officers and Councellors may be choſen by Parliament, the King anſwereth, *That he will chooſe them according to his Pleaſure*, 2 *R.* 2. n. 21. 2 *R.* 2. n. 21.

I Pray obſerve this was acted by the Wiſdom of the Parliament, by reaſon of the tenderneſs of the Prince's Age; but I do not obſerve that it came to any thing. For,

6 *R.* 2. The Commons Petition the King, That the moſt approved wiſe Men may be choſen to be chief Officers for the Government of the Realm, and that their Names may be known to the Parliament, and they not removed without good Cauſe: The King anſwereth, *That he ſhall appoint ſuch Officers as ſhall like him*, 6 *R.* 2. n. 16. 6 *R.* 2. n. 16.

And

9 *R.* 2. n. 39. 13 *R.* 2. n. 67. 21 *R.* 2. n. 73. 5 *E.* 3. n. 15. 51 *E.* 3. n. 69. 17 *E.* 3. n. 33.

And the like you may obſerve 9 *R.* 2. n. 39. 13 *R.* 2. n. 67. 21 *R.* 2. n. 73. 51 *E.* 3. n. 69. 17 *E.* 3. n. 33. With the ſame Anſwers from the Kings.

So you may be pleaſed to take notice, That theſe Petitions and Addreſſes have been ever rejected by the Prince; and indeed it would be very unjuſt to deny that to a King which every Maſter of a Family hath; and would think it unreaſonable if his Servants ſhould be impoſed upon him: It would be no good proſpect in a Prince's Palace to ſee the inferiour Members of the Body, to become the Head.

I have always thought that nothing contributes more to the Grandeur and Glory of King and Kingdom, than wiſe and faithful Miniſters of State and Councellors, ſuch who adviſe the Prince what he ought to do, rather than what he may do; and he that loves not his Majeſtie's Intereſt, hath no kindneſs for his Perſon: He may be high for a time, that ſerves a Prince's

ce's private Intereſt, but he is always ſo that is careful of his Publick Good: To ſtudy the Humour of a Prince may for the preſent Advance, but to underſtand the Intereſt of his Kingdom is always Secure; However Integrity has a Majeſty in its full, and a Glory in its loweſt Eſtate.

I ſhould therefore conceive, if His Sacred Majeſty ſhall in his Princely Wiſdom think fitting; the better to keep his Officers juſt, and to make them move within the Sphear of Integrity and Juſtice, to Ordain as *Henry* the Great of *France* did, a Tribunal Compoſed of a certain number of Judges, whoſe Duty and Care ſhall be to inſpect, and to make exact ſearch of the Miſdemeanors of all thoſe which are intruſted or imployed by him, and to take an account of their Adminiſtration and actings therein, and alſo to receive Information of the People, whether they had been juſtly dealt with, and where not, and accordingly to Reward or Puniſh them.

Plat. This would be an excellent Expedient to make and keep his Officers just and honest. But is it not unreasonable that the King should have the laying out and imploying as he pleases all the Publick Revenues of the Crown or Kingdom, and that without the having any regard (except he thinks fit) to the Necessity of the Navy, or any other thing that concerns the Safety of the Publick?

Brit. I do agree, It's one of the greatest advantages of Power and Reputation for a State to be Rich; for a Kingdom or Commonwealth is no further Powerful than Proportionable to the Wealth of the Publick Treasure, and the greatness of its yearly Income that maintains it.

Treasure is the Nerve of a State, which gives motion to all the Members of it, and which sets the great Wheels of the Common-wealth a going; such is the omnipotency of it; that it can do all things; it will Purchase the Assistance of Foreign Princes; it will endear their Ministers,

Miniſters, open their Cabinets, Engage true and cloſe Correſpondencies, and Penetrate their Councils; Money is the Sinews of War, and the object of Mens Affections, that Prince or State which is Rich in Treaſure, becomes Puiſſant in the one, and abſolute Maſter of the other: therefore nothing is of more advantage, or brings greater Proſperity or Glory to a Prince; than a wiſe and frugal diſtribution of it; and the Neceſſities of State are many times ſo great, that a Prince cannot be too good a Husband. But in this Kingdom of *England*, if the King ſhould not have the laying out and imploying of the Publick Revenue, the Government could not be ſupported, but muſt diſſolve of it ſelf for want of Nerves and Ligaments: The King having the Supream Power in him, as is above declared, he muſt neceſſarily have the diſpoſing and imploying of the Revenue for the advantage and benefit of the State; for the Misfortunes and Infelicities which many times happen to Kingdoms, are on a ſudden and not foreſeen, therefore

fore a Prince ought to be furniſhed with a good Fond of Money *in omnem eventum*; and it may be more prudently laid out and managed by the King with the advice of his Council, than if it were by ſuch a Council as *Pl. Red.* would have it.

Henry the Great of *France*, thinking that his Revenue was not wiſely ordered, and under a good Conduct, did erect a Council for the better management of it (as he thought) then it could be by one, imagining that they would ſerve as a Check, and Comptrollers to one another; but he found by Experience, that there were nothing but Picks and Diſtempers amongſt them, for every one diſcharged himſelf of his Companion; nothing was advanced; and if one would act, the other would croſs him by their Practices; but every one looked to this, That his Salary was well paid him; which coſt the King ſix times more than if he had one Superintendent; and therefore he diſſolved this Council, and replaced the Management of his Revenue

venue in the hands of one (which was *Sully*) who was so excellent a Husband for his Great Master, that in 12 years after the Civil Wars there, he paid all the King's Debts; spent much in Building; he lessened the Taxes, and gathered a Treasure of 50 Millions of Livers.

It's not to be imagined that the King being so highly concerned in point of Interest, as to the Government of the Realm (on which the Safety of himself and People depend) but that he hath and will have a watchful eye and regard to the due Administration of his Revenue: and it's an easier matter for the King out of all his People to find one honest Person to be entrusted with the Management of it, than for *Pl. Red.* to find many, of which his Council must consist; and if it be hard to find one honest man, it will be more difficult to find many.

Plat. I am much pleased and well satisfied with your Discourse; but cannot

cannot the King reſtrain himſelf in the exerciſe of theſe Powers, and ſo permit them to be adminiſtred by four Councils, as *Plat. Red.* would have them?

Brit. No certainly; for being againſt the Dignity of the Imperial Crown of *England*, and the Safety of his People, he cannot reſtrain himſelf in the exerciſe of thoſe Powers, or any of them; neither do I think, that if His Majeſty ſhould Condeſcend thereunto, that the Parliament would give their Conſent; for the Prerogative of the King is the Safety of his People; and all thoſe Acts (tho the Parliament did give their Aſſent) being made againſt the Prerogative of the King, were Void and Null in Law.

Thoſe things which the King is entruſted with *pro bono publico*, are ſo inſeparably annexed to his Perſon, and concern him ſo highly in point of Soveraignty, that he cannot grant them to any, *Coke* lib. 7. *l' Caſe d' Penal Laws.*

Cok. lib. 7. *Le Caſe de Penal Laws.*

If

If a Man be bound to the King in a Recognizance to keep the Peace againſt *B.* and all other the Leige People of the King before the Peace is broken the King cannot Pardon, or Diſcharge this Recognizance, tho ſolely made to himſelf, becauſe it's for the Benefit and Safety of his People, 1 *H.* 7. 10. 11 *H.* 4. 43. 37 *H.* 6. 4.

1 H. 7. 10. 11 H. 4. 43. 37 H. 6. 4

Common Nuſances for not Repairing of Bridges, and Highways, *&c.* The Suit is ſolely given to the King, *Quia nulli magis tueri Rempublicam Creditum eſt, quam Regi*; but the King cannot Pardon or diſcharge them, for as *Bracton* ſaith, lib. 3. fo. 132. *Non poterit Rex gratiam facere cum damno & injuria aliorum*, *Glanvil.* lib. 7. c. 17. So the reſtraint of the exerciſe of thoſe Royal Powers, being againſt the Safety of the People; he cannot grant them.

Bract. lib. 3. fo. 132. *Glan.* lib. 7. c. 17.

The making of Leagues, War or Peace are ſuch incidents to the Crown, that they cannot be taken away by Act of Parliament, *Hut-*

Hutton's Arg. of Ship-Mony, fo. 25.

ton's *Argument of Ship-Money*, fo. 25.

There was a purpose in the beginning of the Reign of King *James*, to have taken away Tenures by Act of Parliament, It was Resolved by the Judges, That such a Statute had been void, because the Tenures were for the Defence of the King and Kingdom, *Hutton* ibid.

The King himself will tell you,

Regist. fo. 61, 62.

That *Jura Coronæ Nostræ integra & illæsa pro viribus Conservanda*, &c. *ad hoc ex debito astringimur vinculo juramenti Regist.* fo. 61, 62.

Stanf. Pl. 54. 6.

Ea quæ Jurisdictionis sunt & pacis & quæ justitiæ & paci annectantur ad Nullum pertinent nisi ad Coronam & Dignitatem regiam, nec à Corona seperari possunt cùm faciant ipsam Coronam, Stanf. Pl. 54. 6.

And many Acts of Parliament made against the King's Prerogative by Parliament have been nulled and made void.

It

It was Enacted that a Statute in the time of *H.* 5. That no Peace ſhould be taken with the *French* King, then called by the Name of the *Dauphine of France*, without the Aſſent of the Three Eſtates of both Realms be utterly revoked, 23 *H.* 6, n. 24. and why was this Statute repealed, but becauſe it was againſt the King's Prerogative, in whom was the ſole Power of making Peace, 7 *R.* 2. n. 4. And tho this Power was veſted in the three Eſtates, yet the Statute was revoked; *à fortiori* if it be placed in a Council, (as your *Pl. Red.* would have it) being againſt the King's Royal Prerogative, it muſt be null and void in Law.

23 *H.* 6. n. 24.

7 *R.* 2. n. 4.

The *Stat.* 15. *E.* 3. was repealed, becauſe it was againſt the King's Laws and Prerogative, *Inſt.* Part 4. fo. 52. 17 *E.* 3. n. 25. 27, 28. 21 *R.* 2. n. 2.

Inſt. Part 4. fo. 52. 17 *E.* 3. n. 23. 27, 28. 21 *R.* 2. n. 2.

And the Lords and Commons in Parliament, formerly have been very careful to preſerve the juſt Rights and Prerogatives of the

Crown, for that they do preſerve the juſt Liberties of the Subject.

42 *E.* 2. The Lords and Commons do declare themſelves in Parliament, That they cannot Aſſent to any thing that tends to the Diſinheriſon of the King and his Crown, to which they are Sworn, *Inſt. Part* 4. fo. 14. *Rot. Parl.* 42 *E.* 3. n. 7.

Inſt. Part 4. fo. 14.

1 & 2. *Ph.* & *Mar.* c. 8. 1 & 2. *Phillip* and *Mar.* c. 8. It was declared, That nothing which was acted in that Parliament ſhall be prejudicial to the Liberties, Priviledges, Prerogatives, Prehemineſnces or Juriſdiction of the Imperial Crown of *England.*

R. 2. By his Teſtament under the Great Seal, deviſed a great Sum of Money to his Succeſſors, upon Condition that he ſhould obſerve all the Acts made 21 *R.* 2. adjudged void, becauſe it reſtrained the Royal Liberty of his Succeſſor, *Inſt.* Part 4. 42.

Inſt. Part 4. fo. 42.

14 *R.* 2. The Lords and Commons

mons Prayed the King, That the Prerogative of him and his Crown might be kept; and that all things done and attempted to the contrary might be redreſſed; and that the King might be as free as any his Progenitors were; whereunto the King granted 14 *R.* 2. n. 15. 14 *R.* 2. n. 15.

15 *R.* 2. The Lords and Commons deſire the King, That he would as largely injoy his Prerogative, as any of his Progenitors did, notwithſtanding any Statute; and namely, the Statute of *Glouceſter*, in the time of *Edw.* 2. the which Statute they utterly repealed: for which their tender Affection the King giveth them thanks, 15 *R.* 2. n. 13. the ſame, 1 *H.* 4. n. 108. 10 *R.* 2. n. 19. 15 *R.* 2. n. 13. 1 *H.* 4. n. 108. 10 *R.* 2. n. 19.

And tho the Lords and Commons ſhould agree to reſtrain His Majeſty in his Royal Prerogative aboveſaid, yet His Majeſty in Juſtice ought not to condeſcend to the ſame, it being againſt his Oath, and the Safety of his People, and ſo great a Derogation and Dimi-

nution of his Just and Royal Power: The Kings of *England* have ever been careful to preserve their *Jura Regalia*; without which they could not Protect and Defend their Subjects, 2 *H.* 7. fo. 6. lib. 7. *Calvin's Cas.*

2 *H.* 7. fo. 2. lib. 7. *Calvin's* Cas.

10 *R.* 2. The King in full Parliament by his own Mouth maketh open Protestation; That for any thing done in the same Parliament, he would not turn it to the prejudice of him or of his Crown; but that the Prerogative of him and his Crown might be saved, 10 *R.* 2. n. 35.

10 *R.* 2. n. 35.

16 *R.* 2. c. 5. The Crown of *England* hath been at all times so free, that it hath been in no Earthly Subjection; but immediately subject to God in all things touching the Regality of the same Crown, and to no other; but if these four Councils which *Pl. Red.* doth insinuate were erected, the King and his Council must be subject to them, and depend upon them.

16 *R.* 2. c. 5.

35 *H.* 8. c. 1. All Prerogatives, Prehminences, Authorities, and Jurisdictions to the Imperial Crown of *England* annexed, shall be and remain unto the King: How are those four Councils, and the Restraint of the Exercise of his Regal Powers abovesaid, consistent with this Act of Parliament. 35 *H.* 8. c. 1.

1 *Eliz.* c. 1. By the Oath of Supremacy, every one is bound to assist and defend all Jurisdictions, Privileges, Preheminences and Authorities belonging or annexed to the Imperial Crown of this Nation: How the exercise of the Regal Powers abovesaid by the four Councils agree with the said Oath it doth concern the Promoters of this design gravely to consider. 1 *Eliz.* c. 1.

Therefore I must tell you, if we will not be ungrateful and unjust; we ought to defend that Kingdom and Government, which Reason perswadeth us unto, Experience approves, and Antiquity commendeth; when inconveniences in the old Laws are not apparent; and

the conveniences to come by the new, are not infallible, it will be perillous to change the Laws, but more perillous when many, and moſt perillous when fundamental.

Pl. Red. fo. 219. tells us, That in the late Civil War here (which was cauſed by the breach of Truſt which His late Majeſty repoſed in the Parliament) though the Parliament had as clear a Victory in the end, as any Conteſt upon Earth ever had; yet could they never reap the leaſt advantage in the world by it, but went from one Tyranny to another, from *Barbone*'s Parliament to *Cromwel*'s Reign, from that to a Committee of Safety; leaving thoſe grave Men who managed their Affairs at the beginning amazed to ſee new Men, and new Principles governing *England*; if there were ſuch diſorders and turmoyles when His Majeſty departed with the Exerciſe of one of his Prerogatives, what Troubles, Diſtractions, Tyrannies, and Confuſion will it cauſe, when His Majeſty ſhall depart with the exerciſe

ercise of all his Regal Powers? as *Plat. Red.* would have him, and shall not have any Power in him to defend himself, or his People.

Collapsa ruent subducti is tecta Columnis.

I cannot see but the King and his Privy Council may manage all the Affairs of State, with much more advantage to the Publick, Honour and Prosperity to His Majesty, (which every good Subject ought to pray for) than if the Administration thereof were by these *Eutopian* and Popular Councils; as *Pl. Red.* would have them.

Plat. The Privy Council is no part of the Government, nor is the King obliged by any fundamental Law, or by any Act of Parliament, to hearken to their Advice, or so much as to ask them, *Pl. Red.* fo. 232.

Brit. The Privy Council is a most August and Illustrious Court, wherein formerly all things of what Nature soever were heard and determined

termined till the Kings of *England* were pleased by several Acts of Parliament to Abridge the Privy Council of the ancient Power which they exercised, as you may see if you will consult these Statutes, 25 *E.* 3. c. 4. *Stat.* 4. 28 *E.* 3. c. 31. c. 42. 13 *H.* 4. c. 7. 3 *H.* 7. c. 14. 3 *E.* 6. c. 5. 21 *Jac.* c. 3. 3 *Car.* 1. c. 1. but this was the grace and favour of the King to his People, not *ex debito*. *Rot. Parl.* 21 *E.* 3. n. 28. *Rot. Parl.* 22 *E.* 3. n. 4. *Rot. Parl.* 25 *E.* 3. *Pars* 1. 1 *H.* 4. n. 160. Peradventure this Council is more ancient than any other Courts of the Kingdom.

25 E. 3. c. 4. Stat. 4. 28. E. 3. c. 31. c. 42. 13 H. 4. c. 7. 3 H. 7. c. 14. 3 E. 6. c. 5. 21 Jac. 3 Car. 1. c. 1.

Plat. I Pray let me understand of what Persons this Court as you call it doth consist, and the Power and Jurisdiction of it; methinks it's a bold Assertion of you to say it's more ancient than the other Courts of the Kingdom.

Brit. I think I shall make it good what I have here asserted: Before I have made it clear unto you, that all the Lands of this Kingdom were in

in the hands of the Kings; and that they granted some great part of them to their People; and that all Jurisdiction and Power was derived from them; can it then be imagined that the King having this *Plenitudinem Potestatis*, and so great Territories and Possessions could act all things in his own Person, and by single advice, certainly no; therefore they have been assisted by a Council or Supream Court; and after all things as to the Territories were settled, then the other Courts by the Advice of the King's Council, were Established for doing of Right and Justice to their Tenants (for so all the People were) and in case they had not Justice done them, then they did appeal to the Supream Court or Council of the King; That the King's Council is very Ancient, *An. Dom.* 697. *Britwaldus* was of the King's Privy Council, *Spilman's Concil.* Tom. 1. fo. 194.

Henricus de Bello-Monte was *de Magna & Privato Concilio*; *Clauſ.* 16 *E.* 2. *M.* 5. *Dorſ. Inſt.* Part 1. fo.

fo. 110. This *de Bello-Monte* was committed to Prison for refusing to Counsel the King touching Truce propounded between the King and the *Scots*; The said Baron *de Bello-Monte* being then of the King's Privy Council, *T.* 16 *E.* 2. *B. R. Rot.* 42.

Senatores sunt partes Corporis Regis. Stanf. pl. fo. 72. *Inst.* Part 4. fo. 53. *p.* 1.

The Persons of which this Council consist, are Prælates and other great Personages versed in State-Affairs, when they are fewest they are twelve; they are Persons of great Estates, and so for their Honour, will counsel the King faithfully; the Prælates are well-studied in the Divine Law, the other Grandees in Affairs and Managery of the Government: The Judges, King's Serjeant, Attorney, Sollicitor, and Masters of *Chancery*, (which are to assist the King with their Advice) are versed in the Law and Customs of the Realm, all which are Sworn to serve the King and his People justly. The

The King's Privy Council did ſit with the Peers in Parliament, and were of great and extraordinary Authority there.

In Articulis ſuper Chartas, when the great Charter was confirmed at the requeſt of the Prælates, Earls and Barons, there are found theſe two Proviſions.

1. The King and his Council do not intend by reaſon of this Statute, to Diminiſh the King's Right.

2. Notwithſtanding all theſe things before-mentioned, or any part of them, both the King and his Council, and all they which were preſent, will and intend that the Right and Prerogative of his Crown ſhall be ſaved to him in all things; Vid. 25 *E.* 3. *Stat. de Perviours.*

Parliaments have put great Truſts in the King's Council. They were entruſted by Parliament to anſwer to Bills and Petitions, and to end them

them not answered in Parliament, 7 *R.* 2. n. 50. 8 *H.* 6. n. 45. 8 *H.* 6. n. 45. 8 *H.* 6. n. 69. 18 *H.* 6. n. 33. 6 *H.* 4. n. 60.

1 *R.* 2. All kind of Gifts whatsoever made by King *E.* 3. be examined, and being worthily bestowed on any Person to be confirmed, or otherwise revoked; the Lords of the King's continual Council (*viz.*) Privy Council, shall examine the deserts of the Persons, and do thereafter, 1 *R.* 2. n. 58, 59.

The King's Council have been so regarded for their Wisdom and Judgments; that the very Judges before they would give Judgment in new Cases have consulted with the King's Council.

Green and *Thorpe*, were sent by the Judges to the King's Council to desire of them, whether by the *Stat.* 14 *E.* 3. c. 16. a word may be amended in a Writ; and it was by them answered, *That a word may well be amended, altho the Statute speaks but of a Letter or Syllable.*

In

In the Case of Sir *Tho. Ogthred*, who brought a *Formedon* against a Poor Man and his Wife, they came and yielded to the Demandant, which seemed suspitious to the Court, whereupon Judgment was stayed, and *Thorpe* Justice said, that in the like Case of *Giles Blacket*, it was spoken of in Parliament, and we were commanded, that when any like should come, we should not go to Judgment without good advise, therefore the Judges conclusion was, *suers au Council & comen its violent que nous devomus faire, nous volumus faire, et autrement inent en ceſt Case:* sue to the Council and as they will have us do, we will do, and otherwise not in this Case. 39. *E.* 3. 39 E 3.

So that you see the Judges themselves were guided by the King's Council, and yet the Opinion of the Judges have guided the Lords in Parliament in point of Law.

If any Error be committed in the King's-Bench, which is the highest ordinary Court of Common Law in

in the Kingdom, that Error must be redressed in Parliament, and the manner is saith the Lord Chancellor *Egerton*; if a Writ of Error be sued in Parliament upon a Judgment given by the Judges in the King's-Bench; the Lords of the higher House alone (without the Commons) are to examine the Error; the Lords are to proceed according to the Law, and for their Judgments therein they are to be informed by the Advice and Counsel of the Judges, who are to inform them what the Law is, and to direct them in their Judgment; for the Lords are not to follow their own Discretion or Opinion otherwise, *Elsmore Post Nat.* fo.60.

Elsmere Post Nati. fo. 35.

28 *H.* 6. The Commons made Suit that *William de la Poole* Duke of *Suffolk* should be Committed to Prison for many Treasons and other Crimes, the House of Peers were doubtful what Answer to give, the Opinion of the Judges was demanded; Their Opinion was, That he ought not to be Committed, for that the Commons did not charge him

him with any particular Offence, but with general Reports and Slanders; this Opinion was allowed.

As they were looked upon with great Veneration, so their Power, Authority, and Jurisdiction was very great.

King *Edward* the First, finding that *Boga de Clare* was discharged of an Accusation brought against him in Parliament, Commanded him to appear nevertheless before him and his Council, *ad faciendum & recipiendum quod per Regem & ejus Concilium fuerit faciendum*, 8 *E.* 1.

E. 3. In the Star-Chamber (which was the ancient Council Table at *Westminster*) upon the Complaint of *Eliz. Audley*, Commanded *James Audley* to appear before him, and his Council, and determined a Controversie before them touching Lands contained in her Jointure. *Rot. Claus. de Anno* 41. *E.* 3.

Edward the Fourth, and his Council heard the Case of the Master and poor Brethren of St. *Leonard*'s in *York*, complaining that Sir *Henry Hastings*, and others with-drew from them a great part of their Lands which consisted chiefly upon the having of a Thrave of Corn of every Plow-Land within the Counties of *York*, *Westmorland*, *Cumberland*, and *Lancashire*.

Rot. Pat. 8. E. 4. Part 3. m. 14.

Plat. It seems in those days an Order of the King's Council was either part of the Common-Law, or above it.

Brit. Truly their Power was great till by Acts of Parliament, as it doth appear aboveſaid, the Power of the Council was taken away in many things; but it doth yet remain a *Tres-hault*, & *Tres Illustrous Court & Council.*

Plat. But Sir, The King is not bound by any Fundamental Law, or by any Act of Parliament to hearken to their Advice, or so much as to ask them.

Brit.

Brit. The Kings of this Realm have ever made uſe of their Council in all things of any grand Concern, yet you muſt know, they are but Councellors, not *Conſortes Imperii*, and the King may reject their Counſel; for *Conſilium non neceſſitat.* 21 E. 3. n. 5.

1 R. 2. The Commons Petition, That the Officers appointed for *Gaſcoyne*, *Ireland*, *Artois*, the Marches of *Scotland*, Keepers of Ports and Caſtles may be of ſufficient Inheritance to Anſwer, &c. Anſwer, *The King will do therein according to the Advice of his continual Council*, 1 R. 2. n. 52. 1 R. 2. n. 52.

When the King hath been Retitioned in Parliament, &c. his Anſwer hath been, *Let them make Report unto the Continual Council, who ſhall take order therein*, 1 R. 2. 57. n. 20. 9 H. 4. n. 52. 21 E. 3. n. 13. 1 R. 2. n. 57. n. 20. 9 H. 4. n. 52. 21 E. 3. n. 13.

Parliaments are ſummoned *De adviſamento Concilii*, Inſt. Part 4. fo. 4. Inſt. Part 4. fo. 4.

Plat. Sir, I again thank you, for you have given me a great Proſpect of this *Tres-grand Council.*

Yet methinks theſe four Councils would be of much advantage to the King, to eaſe him of a great deal of Trouble, and to ſee his Houſhold well managed, and under a frugal Conduct; which would turn to his Profit, and Intereſt.

Brit. Kings have Creatures of their own, in whom they may repoſe, and do eaſe them of their Troubles; and whom by their Bounty they do oblige to be faithful to them; it cannot be well taken by any Prince for Subjects to take upon them the Management of the King's Houſhold, and to Conduct it as they pleaſe; Therefore 20 *R.* 2. Sir *Thomas Haxey*, Speaker of the Houſe of Commons was Condemned for a Traytor, for delivering a Petition to the Lords, that the great and exceſſive Charge of the King's Houſe, might and ought to be amended

amended and taken away; The King was highly displeased, that the Commons who were his Subjects durst presume of any Ordinance or Government of his House or Family: The Commons declared themselves to be much grieved, and that they meant no harm, they submitted themselves to the King, and humbly craved Pardon: The Chancellor by the King's Commandment declared, That the King held them excused, 20 *R.* 2. n. 16. 17. 21.

Sir, I am fearful that I have put you to great expence of Patience, but I beg your Pardon, when we shall have the happiness to meet again, we shall discourse at large of the Religious Maxims which in your *Plat. Red.* are contained.

Pl. Sir, I desire nothing more; for some things are therein delivered, which are not very Orthodox, but are as pernicious to the Church, as his others are to the State; I thank you again, and must tell you, that you are the greatest

Usurer that I ever met with, for you have made me enter into many Obligations unto you.

Dear *Britanicus*, I take my leave of you, and wish you all Prosperity.

Brit. The same to your Noble Self; Farewel.

FINIS.